

**ALABAMA LAWS**  
**(and Joint Resolutions)**  
**OF THE**  
**LEGISLATURE OF ALABAMA**  
**PASSED AT THE**  
**REGULAR SESSION 1985**  
**VOL. II**



**GEORGE C. WALLACE, Governor**  
**WILLIAM J. BAXLEY, Lieutenant Governor**  
**JOHN A. TEAGUE, President Pro-Tem of the Senate**  
**TOM DRAKE, Speaker of the House**  
**ROY JOHNSON, SPEAKER Pro-Tem of the House**  
**McDOWELL LEE, Secretary of the Senate**  
**JOHN W. PEMBERTON, Clerk of the House**

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**WITH AN INDEX PREPARED BY THE**  
**LEGISLATIVE REFERENCE SERVICE**

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The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1985 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Don Siegelman  
Secretary of State

Hammurabi, the King of Babylon, initiated a practice some 4000 years ago which has become a cornerstone of democratic government—a written code of laws. This ancient concept of the public's right to know is acknowledged and protected by the “due process clause” of the Fourteenth Amendment of the United States Constitution, the Alabama Constitution, and the Code of Alabama, which require that Alabama's laws be published and made available to the public.

However, because the laws are available to the public does not necessarily mean that they are accessible. It is said that one of the hateful acts of the ill-famed Roman Emperor Caligula was that of having the laws inscribed on a pillar so high that the people could not read them. In an effort to lower the “pillar” a tiny notch, and thereby make our laws slightly more accessible for those who are regular users of the Alabama Acts, a new numbering system was initiated in the 1979 session.

Under this system every act of the Legislature, regardless of the type of session which it was enacted, is numbered sequentially in the order received by the Secretary of State. Numbering begins at the commencement of each calendar year and incorporates a two digit prefix corresponding to the last two digits of the year of enactment. For example, the first act received from the Governor in 1983 is designated as Alabama Act 83-1, the second act is 83-2, and so forth.

People behind the scenes who made publication of these volumes possible include: McDowell Lee, Secretary of the Senate; John Pemberton, Clerk of the House of Representatives; Ann Worthington and Meredith Graves, enrolling and engrossing clerks; Dodie Pappanastos and; Helen Thorington, technical proofreaders; Louis Green, Director of the Legislative Reference Service; and, Edna Erie Young of the Secretary of State's office.

Suggestions regarding the organization, publication and distribution of these acts are welcomed.

Don Siegelman  
Secretary of State

Act No. 85-538

H. 936—Reps. Parker, Biddle, Martin, Drake, Smith, Bugg, Lauderdale, Carter, Starkey, Moore, Clark (D), Goodwin, Albright, Grayson, Junkins, Newman, Clark (J), Escott, Richardson, Blake, Zoghby, Burke, Trammell, Boles, Gray, Spratt, White (G), Ford, Harvey, Bowling, White (L), Cosby, Johnson (Roy), Warren, Gaston, Grouby, Kvalheim, Flowers, Carothers, Beasley, Hammett, Venable, Johnson (RG), Laird, Adams, Crow, Browder, Mathis, Penry, Lindsey, McMillan, Harper, Marietta, Turner, Onderdonk, Blakeney, and Holley

## AN ACT

Relating to missing persons and unidentified deceased persons; to create a statewide information center within the state department of public safety to receive reports and investigations of such persons; to require the bureau to enter and cancel certain information to the National Crime Information Center (NCIC) computer; to provide for certain other responsibilities of the bureau; to require the bureau to provide lists of missing school children, grades K-12, to the state board of education; to provide that the bureau shall upon request, assist local law enforcement agencies and other agencies to set up direct computer access to the state's computer system and to provide that the bureau maintain a toll-free telephone number for reporting by other persons of missing persons.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For purposes of this act, the following words shall have the meanings ascribed, unless the context clearly indicates otherwise:

(a) Department. The Alabama department of public safety.

(b) Director. The director of the department of public safety.

(c) Bureau. The missing children bureau created by this act within the department.

(d) Law enforcement agencies. Federal, state and local law enforcement agencies of this state primarily, and of other states generally.

(e) NCIC. The national crime information center and its computer system of reported missing persons and unidentified deceased person maintained by the Federal Bureau of Investigation.

(f) CJIC. The criminal justice information center of the state.

**Section 2.** There is hereby created within the department of public safety a statewide information and investigation center for the reporting by law enforcement agencies and other agencies and persons of missing persons and unidentified deceased persons. The bureau shall be known as the Missing Children Bureau, hereinafter referred to simply as "the bureau."

**Section 3.** The director of the department of public safety is hereby required to establish the missing children bureau within the department, and for such purposes, is authorized to transfer or assign existing personnel within the department and to hire such additional technical, legal, clerical, investigative and other persons as are necessary to implement the provisions of this act.

**Section 4.** The bureau shall be responsible for the following specific functions:

(a) To receive and promptly enter into the state's computer system all reports of law enforcement agencies, and other persons and agencies, of missing children and adults, and of unidentified deceased persons, and all pertinent information submitted by the person or agency reporting which is contained in any investigation or investigations conducted pursuant to the report. The bureau shall also promptly enter such information in the NCIC computer network. If a missing person is subsequently found or if an unidentified deceased person is subsequently identified, and such information is reported to the bureau, the bureau shall immediately retrieve and cancel such data from the state computer system and from the NCIC computer system.

(b) To coordinate with other states and with the federal government in investigating cases of missing persons and unidentified bodies and to conduct appropriate investigations.

(c) To provide special training to law enforcement officers and medical examiners, when available, to help them handle cases of missing persons and unidentified bodies.

(d) To compile annual statistics on the number of missing persons and unidentified deceased persons in this state.



(e) To develop recommendations for better reporting and use of computer systems.

(f) To establish a toll free telephone number to assist agencies and individuals in the reporting of missing persons and unidentified deceased persons.

(g) To provide periodic lists, including photographs if available, to the state board of education, of all missing school children in this state, grades K-12.

(h) To assist local law enforcement agencies and other agencies to set up direct computer access to the state's computer system.

(i) To solicit and collect from the agencies of other states and the national government dealing with missing persons all available lists of missing children grades K-12 for dissemination to the state board of education.

(j) To provide all agencies of other states or the national government dealing with missing persons a list of all missing Alabama school children grades K-12, with photographs, if available, for dissemination to the school systems of such other states to locate such children.

(k) To act as liaison between private citizens and law enforcement agencies regarding the appropriate procedures for handling and responding to missing person cases.

(l) To assist local law enforcement agencies and community organizations who sponsor programs to fingerprint children by enabling parents to retain a permanent fingerprint record of their children for identification purposes.

**Section 5.** Any law enforcement agency in this state in which a complaint of a missing person has been filed shall prepare and send a report to the bureau within 72 hours on any missing person or unidentified deceased person. That report shall include, but is not limited to, the following:

a. All information contained in the complaint on a missing person.

b. All information or evidence gathered by a preliminary investigation, if one was made.

c. A statement, by the law enforcement officer in charge, setting forth that officer's assessment of the case based upon all evidence and information received.

d. An explanation of the next steps to be taken by the law enforcement agency filing the report.

**Section 6.** Upon completion of the report, a copy of the teletype message with pertinent information shall be forwarded to:

1. All law enforcement agencies having jurisdiction of the location in which the missing person lives or was last seen.
2. All law enforcement agencies considered to be potentially involved by the law enforcement agency filing the report.
3. All law enforcement agencies which the complainant requests the report to be sent to, if the request is reasonable in light of the information contained in the report.
4. Any law enforcement agency requesting a copy of the missing person report.

**Section 7.** Upon receiving a report of a person believed to be missing, the law enforcement agency shall conduct a preliminary investigation to determine whether the person is missing. If the person is determined to be missing, the agency shall immediately enter identifying and descriptive information about the person to the bureau and to the National Crime Information Center (NCIC) through the Criminal Justice Information Center (CJIC). Law enforcement agencies having direct access to the CJIC and the NCIC computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the systems. Law enforcement agencies shall likewise report or enter data to the bureau relating to unidentified deceased persons.

**Section 8.** Immediately after a missing person is located, or an unidentified deceased person is subsequently identified, the law enforcement agency which locates or returns the missing person, or which identifies a previously unidentified deceased person, shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the state CJIC, the NCIC computer, and from the state bureau.

**Section 9.** The state board of education shall perform the following functions:

(a) Collect each month a list of missing Alabama school children, with a photograph, if available, as provided by the Missing Children Bureau. A missing Alabama school child shall be defined for the purposes of this section as a child under 18 years whose whereabouts are unknown. The list shall be designed to include such information as the board deems necessary for the identification of the missing school child; and

(b) Compile from the information collected pursuant to subsection (a) a list of missing school children, to be distributed monthly

to all public school systems admitting children to kindergarten through grade 12. The list shall include the names of all such missing children, together with such other information, with photographs, when available. The school systems shall distribute this information to the public schools in the system by whatever manner each system deems appropriate.

**Section 10.** Every public school system in this state shall notify the department of education and the bureau immediately with respect to any child whose name appears on the department's list of missing school children who is subsequently found.

**Section 11.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:05 P.M.

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Act No. 85-539

H. 332—Reps. Coburn, Moore,  
and Clark (J)

### AN ACT

To make appropriations for the ordinary expenses of the executive, legislative and judicial departments of the State, for other functions of government, for interest on the public debt, and for capital outlay for the fiscal year ending September 30, 1986.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The monies in Section 2 are appropriated from the named funds for the 1985-86 fiscal year to the state agency indicated, as the amounts to be used to pay the expenditure of the named agencies, and are in lieu of all monies appropriated for these purposes in other sections of the Alabama Statutes.

For the purpose of this Act, the amounts herein for expenditures are listed by programmatic area and the total for all programs are shown by the source of funds. It is intended that only the named funds be appropriated to the agency concerned; and that the following definitions shall be applicable:

(a) "Appropriation Total" shall mean the aggregate total of all fund sources.

(b) "Program" shall mean specific governmental services required to achieve a specific objective. A program shall be directed to meeting the need of an identified clientele, or group of recipients or beneficiaries.

(c) "Capital Outlay" shall mean expenditures which result in the acquisition and/or addition to items, such as land or buildings, which have an appreciable and calculable period of usefulness in excess of one year, and shall be expended only for such purposes.

(d) "Debt Service" shall mean an expenditure for the payment of interest and principal on all bonded debt obligations of the State, and shall be expended only for such purposes.

**Section 2.** There is hereby appropriated for the ordinary expenses of the executive, legislative, and judicial departments of the State, for other functions of government, for the principal and interest on the public debt, and for capital outlay for the fiscal year ending September 30, 1986, to be paid out of any monies hereinafter specified, from such other funds and accounts as may be designated, or so much thereof as may be necessary, and the total amount to be expended for the items for which the appropriation is herein made shall not exceed the amount provided therefor, except as provided in the Budget Management Act of 1976, Section 41-19-1 through 12, Code of Alabama 1975. Provided, however, that regardless of the ending date of any period which has been or may be established by the Legislature for the payment of salaries of state employees, the entire payment due shall be made from the fiscal year's appropriation in which the pay date falls.

	General Fund	Trust Fund	Approp. Total
<b>2A. LEGISLATIVE:</b>			
<b>1. EXAMINERS OF PUBLIC ACCOUNTS, DEPART- MENT OF:</b>			
(a) Legislative Support-Audit Services Program .....			4,255,800
The appropriation to the Exam- iners of Public Accounts shall include a transfer to the State Personnel Department of \$12,372.			
<b>SOURCE OF FUNDS:</b>			
(1) State General Fund .....	4,155,800		
(2) Federal Funds .....		<u>100,000</u>	

Total Department of Examiners of Public Accounts .....	<u>4,155,800</u>	<u>100,000</u>	<u>4,255,800</u>
2. LEGISLATIVE COUNCIL:			
(a) Legislative Operations and Support Program .....			180,000
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>180,000</u>		
Pursuant to Section 29-6-1 through 7, Code of Alabama 1975.			
Total Legislative Council .....	<u>180,000</u>		<u>180,000</u>
3. LEGISLATIVE FISCAL OF- FICE:			
(a) Legislative Operations and Support Program (to include program review and evaluation) .....			775,000
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>775,000</u>		
Total Legislative Fiscal Office .....	<u>775,000</u>		<u>775,000</u>
4. LEGISLATIVE REFER- ENCE SERVICE:			
(a) Legislative Operations and Support Program .....			1,013,430
The appropriation to the Legisla- tive Reference Service shall in- clude a transfer to the State Personnel Department of \$566.			
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>1,013,430</u>		
Total Legislative Reference Service .....	<u>1,013,430</u>		<u>1,013,430</u>
5. LEGISLATURE:			
(a) Legislative Operations and Support Program .....			1,257,642
Of the above appropriation at least \$50,000 shall be allocated for Ways and Means Committee,			

House Rules Committee and  
Speaker of the House Office.

Of the above appropriation to the  
Legislature, at least \$10,000 shall  
be allocated to both the Office of  
the Speaker of the House of  
Representatives and to the Of-  
fice of the Lieutenant Governor  
for miscellaneous operating ex-  
penses.

(b) Legislative Data Processing Program .....	165,000
(c) Permanent Joint Highway Committee .....	250,000

To reimburse the Highway De-  
partment for payments to Con-  
sultants and other expenses  
incurred by the Highway De-  
partment in a study of develop-  
mental highway systems. The  
appropriation to the Legislature  
shall be expended under the pro-  
visions set forth in Act 84-130.

#### SOURCE OF FUNDS:

(1) State General Fund .....	<u>1,672,642</u>	
Total Legislature .....	<u>1,672,642</u>	<u>1,672,642</u>

#### 6. LEGISLATURES, NA- TIONAL CONFERENCE OF STATE:

(a) Legislative Operations and Support Program .....	59,761
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#### SOURCE OF FUNDS:

(1) State General Fund .....	<u>59,761</u>	
Total National Conference of State Legislatures .....	<u>59,761</u>	<u>59,761</u>

#### B. JUDICIAL

##### 1. COURT OF CIVIL AP- PEALS:

(a) Court Operations Program .....	992,200
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#### SOURCE OF FUNDS:

(1) State General Fund .....	<u>992,200</u>		
Total Court of Civil Appeals .....	<u>992,200</u>		<u>992,200</u>
2. COURT OF CRIMINAL APPEALS:			
(a) Court Operations Program .....			1,423,800
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>1,423,800</u>		
Total Court of Criminal Appeals ..	<u>1,423,800</u>		<u>1,423,800</u>
3. JUDICIAL INQUIRY COMMISSION:			
(a) Administrative Services Program .....			89,500
The appropriation to the Judicial Inquiry Commission shall include a transfer to the State Personnel Department of \$40.			
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>89,500</u>		
Total Judicial Inquiry Commission .....	<u>89,500</u>		<u>89,500</u>
4. JUDICIAL RETIREMENT SYSTEM:			
(a) Fringe Benefits Program .....			1,266,000
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>1,266,000</u>		
Total Judicial Retirement System .....	<u>1,266,000</u>		<u>1,266,000</u>
5. SUPREME COURT:			
(a) Court Operations Program .....			3,751,000
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>3,731,000</u>		
(2) Federal, Local and Miscellaneous Funds .....		<u>20,000</u>	
Total Supreme Court .....	<u>3,731,000</u>	<u>20,000</u>	<u>3,751,000</u>
6. UNIFIED JUDICIAL SYSTEM:			
(Administrative Office of Courts)			

(a) Court Operations Program .....	52,011,763
(b) Administrative Services Program .....	3,352,537
(c) Consultant and Planning Services Program .....	250,000
(d) DUI Program .....	100,000

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>55,714,300</u>	
Total Unified Judicial System .....	<u>55,714,300</u>	<u>55,714,300</u>

## C. EXECUTIVE

1. ACADEMY OF HONOR,  
ALABAMA:

(a) Historical Resources Manage- ment Program .....	850
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## SOURCE OF FUNDS:

(1) State General Fund .....	850	
As provided in Section 41-11-6, Code of Alabama 1975.		
Total Alabama Academy of Honor .....	<u>850</u>	<u>850</u>

2. ACCOUNTANCY, ALA-  
BAMA STATE BOARD OF  
PUBLIC:

(a) Professional and Occupational Licensing and Regulation Program .....	287,000
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The appropriation to the Alabama State Board of Public Accountancy shall include a transfer to the State Personnel Department of \$81.

## SOURCE OF FUNDS:

(1) Alabama State Board of Pub- lic Accountancy Fund .....	287,000
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As provided in Section 34-1-22, Code of Alabama 1975. In addition to the amounts appropriated hereinabove to the State Board of Public Accountancy



there is hereby appropriated such an amount as may be necessary to pay the refund of any application for license which may have been rejected by the Board or withdrawn by request of applicant.

Total Alabama State Board of Public Accountancy .....	<u>287,000</u>	<u>287,000</u>
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### 3. ADJUSTMENT, BOARD OF:

(a) Special Services Program .....		230,000
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#### SOURCE OF FUNDS:

(1) State General Fund .....	15,000	
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For the State General Fund Contribution to the total expenditure of \$750,000 pursuant to Section 41-9-73, Code of Alabama 1975, as amended.

(2) State General Fund, Estimated .....	200,000	
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For expenditures as provided in Section 31-3-2 and Section 36-30-2, Code of Alabama 1975, as amended.

(3) State General Fund-Administrative Costs .....	<u>15,000</u>	
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Total Board of Adjustment .....	<u>230,000</u>	<u>230,000</u>
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### 4. AERONAUTICS, DEPARTMENT OF:

(a) Airport Development and Aeronautical Support Program .....		682,699
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The appropriation to the Department of Aeronautics shall include a transfer to the State Personnel Department of \$445.

#### SOURCE OF FUNDS:

(1) Airport Development Fund.	682,699	
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As provided by Section 4-2-42, Code of Alabama 1975.

Total Department of Aeronautics	<u>682,699</u>	<u>682,699</u>
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5. AGING, COMMISSION ON:

(a) Planning and Advocacy for Elderly Program .....		16,546,320
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The appropriation to the Commission on Aging shall include a transfer to the State Personnel Department of \$1,415.

SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	<u>2,105,000</u>		
(2) Federal, Local and Miscellaneous Funds .....		<u>14,441,320</u>	
Total Commission on Aging .....	<u>2,105,000</u>	<u>14,441,320</u>	<u>16,546,320</u>

6. AGRICULTURAL CENTER BOARD:

(a) Agricultural Development Services Program .....		654,150
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The appropriation to the Agricultural Center Board shall include a transfer to the State Personnel Department of \$606.

SOURCE OF FUNDS:

(1) State General Fund .....	104,000		
For expense and awarding of prizes for fairs as provided in Section 2-7-2, Code of Alabama 1975.			
(2) State General Fund-Transfer-Operations .....	100,000		
(3) State General Fund-Transfer-Livestock Coliseum .....	256,800		
(4) Livestock Coliseum Fund .....		<u>193,350</u>	
Total Agricultural Center Board ..	<u>460,800</u>	<u>193,350</u>	<u>654,150</u>

7. AGRICULTURAL AND INDUSTRIAL EXHIBIT COMMISSION, ALABAMA:

(a) Agricultural Development Services Program .....		30,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>30,000</u>	
Total Alabama Agricultural and Industrial Exhibit Commission .....	<u>30,000</u>	<u>30,000</u>

## 8. AGRICULTURAL AND CONSERVATION DEVELOPMENT COMMISSION:

(a) Agricultural Development Services Program .....		2,000,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>2,000,000</u>	
Total Agricultural and Conservation Development Commission. ....	<u>2,000,000</u>	<u>2,000,000</u>

The above appropriation to the Agricultural and Conservation Development Commission shall be conditional upon the ratification of the Constitutional Amendment creating this Commission.

## 9. AGRICULTURE AND INDUSTRIES, DEPARTMENT OF:

(a) Administrative Services Program .....		1,432,523
(b) Agricultural Inspection Services Program .....		10,483,225
(c) Laboratory Analysis and Disease Control Program .....		3,909,270
(d) Agricultural Development Services Program .....		1,252,230

Of the above appropriation, \$250,000 shall be allocated for a Farmer's Market in Cullman County.

(e) Land Assistance Program .....		100,000
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To be administered in conjunction with the Federation of Southern

Cooperatives for the benefit of small farmers and landowners. The appropriation to the Department of Agriculture and Industries shall include a transfer to the State Personnel Department of \$34,004.

#### SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	7,694,900
(2) Federal, Local and Miscellaneous Funds .....	1,877,048
(3) Shipping Point Inspection Fund .....	4,429,000

Pursuant to Sections 2-9-20 through 21, Code of Alabama 1975. All fees and charges collected by the Commissioner of Agriculture and Industries and deposited into said fund, and such appropriation to the Department of Agriculture and Industries shall include all fees and charges collected and deposited therein for Shipping Point Inspection grading and classification services for agricultural products including services furnished for weighing and issuing weight certificates to be used for the sale of agricultural commodities.

(4) Agricultural Fund .....	<u>3,176,300</u>		
Total Department of Agriculture and Industries .....	<u>7,694,900</u>	<u>9,482,348</u>	<u>17,177,248</u>

#### 10. AIR TRANSPORTATION AND SERVICE, DEPARTMENT OF:

(a) Administrative Support Services Program .....	2,488,200
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The appropriation to the Department of Air Transportation and Service shall include a transfer

to the State Personnel Department of \$1,294.

SOURCE OF FUNDS:

(1) State General Fund- Transfer .....	1,783,200		
(2) Departmental Receipts .....		<u>705,000</u>	
Total Department of Air Transportation and Service .....	<u>1,783,200</u>	<u>705,000</u>	<u>2,488,200</u>

11. ALCOHOLIC BEVERAGE CONTROL BOARD, ALABAMA:

(a) Alcoholic Beverage Management Program .....	23,902,115
(b) Enforcement Program .....	6,042,426
(c) Administrative Services Program .....	3,901,115

The appropriation to the Alabama Alcoholic Beverage Control Board shall include a transfer to the State Personnel Department of \$77,267, and to the Department of Mental Health of \$1,000,000.

SOURCE OF FUNDS:

(1) ABC Board Fund .....	33,845,656
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In addition to the above appropriations herein made, there is hereby appropriated for each additional retail store put into operation during the fiscal year, an amount equal to the sum required to install and operate the last comparable retail store put into operation by said Board provided, however, that the sum appropriated for the operation of retail stores as provided herein shall be reduced in like manner for each retail store closed or withdrawn from operation during the same period. There is further appropriated to the Alabama Alcoholic Beverage Control Board, after provision has been made for the other expenditures herein authorized such sums as are or may be necessary to purchase the alcoholic beverages which are essential to maintain adequate stocks and inventory for an economic and successful sales operation. In addition to the above appropriation, it is further provided that, in the event any county or municipality of the State shall, during the fiscal period covered by this appropriation by proper referendum, authorize the legal sale of malt and brewed beverages within such county or municipality there is further appropriated, in addition to the amount herein set out, an amount comparable to that expended during

the prior fiscal year for beer and license tax supervision within counties or municipalities of similar size and population. Provided, further that the amount appropriated herein shall be reduced in like manner in the event any county or municipality wherein malt and brewed beverages are now authorized by law to be sold shall, during the fiscal period covered by this appropriation by proper referendum, declare unlawful the sale in such county or municipality of such malt or brewed beverages.

Total Alabama Alcoholic Beverage

Control Board .....	<u>33,845,656</u>	<u>33,845,656</u>
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12. ARCHITECTS, BOARD  
FOR REGISTRATION OF:

- (a) Professional and Occupational  
Licensing and Regulation  
Program .....

163,000

The appropriation to the Board for  
Registration of Architects shall  
include a transfer to the State  
Personnel Department of \$122.

SOURCE OF FUNDS:

- (1) Fund of the Board for Regis-  
tration of Architects. ....

163,000

As provided in Section 34-2-41,  
Code of Alabama 1975

Total Board for Registration of  
Architects .....

163,000

163,000

13. ARCHIVES AND HIS-  
TORY, DEPARTMENT OF:

- (a) Historical Resources Manage-  
ment Program .....

1,392,298

The appropriation to the Depart-  
ment of Archives and History  
shall include a transfer to the  
State Personnel Department of  
\$3,194.

SOURCE OF FUNDS:

- (1) State General Fund ..... 1,331,800

- (2) Federal Funds .....

60,498

Total Department of Archives and History .....	1,331,800	60,498	1,392,298
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14. ATTORNEY GENERAL,  
OFFICE OF THE:

(a) Legal Advice and Legal Services Program .....			5,460,661
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(b) Fair Marketing Practices Program .....			459,634
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The appropriation to the Office of the Attorney General shall include a transfer to the State Personnel Department of \$11,240.

SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	4,323,766		
(2) State General Fund-Transfer-Consumer Protection .....	402,134		
(3) Transfer from Pensions and Security .....		422,929	
(4) Federal, Local and Miscellaneous Funds .....		771,466	

Total Office of the Attorney General .....	4,725,900	1,194,395	5,920,295
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15. AUDITOR, STATE:

(a) Fiscal Management Program .....			853,240
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The appropriation to the State Auditor shall include a transfer to the State Personnel Department of \$1,981.

SOURCE OF FUNDS:

(1) State General Fund .....	853,240		
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Total State Auditor .....	853,240		853,240
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16. BANKING DEPARTMENT, STATE:

(a) Charter, License, and Regulate Financial Institutions Program .....			2,668,827
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The appropriation to the State Banking Department shall include a transfer to the State Personnel Department of \$3,962.

## SOURCE OF FUNDS:

(1) Banking Assessment Fees .....	2,159,878		
As provided in Section 5-2A-20, Code of Alabama 1975.			
(2) Bureau of Credit Unions .....	236,889		
As provided in Section 5-17-7 and Section 5-2A-103, Code of Ala- bama 1975, as amended.			
(3) Loan Examination Fund .....	272,060		
As provided in Section 5-2A-24, Section 5-16-38.1, and Section 5-18-5, Code of Alabama 1975, as amended.			
Total State Banking Department	<u>2,688,827</u>	<u>2,668,827</u>	

17. BAR ASSOCIATION, ALA-  
BAMA STATE:

(A) Professional and Occupa- tional Licensing and Regulation Program .....			848,000
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## SOURCE OF FUNDS:

(1) State Bar Association Fund ...	848,000		
As provided in Section 34-3-4, Code of Alabama 1975.			
Total Alabama State Bar Association .....	<u>848,000</u>	<u>848,000</u>	

18. BEAR CREEK DEVELOP-  
MENT AUTHORITY:

(a) Water Resource Development Program .....			316,308
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## SOURCE OF FUNDS:

(1) State General Fund .....	57,200		
(2) Federal, Local and Miscella- neous Funds .....	<u>259,108</u>		
Total Bear Creek Development Authority .....	<u>57,200</u>	<u>259,108</u>	<u>316,308</u>

19. BUILDING COMMISSION,  
STATE:

(a) Special Services Program .....			575,000
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The appropriation to the State Building Commission shall include a transfer to the State Personnel Department of \$1,698.

SOURCE OF FUNDS:

(1) State General Fund- Transfer .....	375,000		
(2) Federal, Local and Miscellaneous Funds .....		<u>200,000</u>	
Total State Building Commission	<u>375,000</u>	<u>200,000</u>	<u>575,000</u>

20. CHILD ABUSE AND NEGLECT PREVENTION BOARD:

(a) Children's Trust Fund Program .....			458,000
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In accordance with Sections 26-16-1 through 12, and 26-16-30 through 33, Code of Alabama 1975, as amended. The appropriation to the Child Abuse and Neglect Prevention Board shall include a transfer to the State Personnel Department of \$40.

SOURCE OF FUNDS:

(1) State General Fund- Transfer .....	250,000		
(2) Children's Trust Fund, Estimated .....		<u>208,000</u>	
Total Child Abuse and Neglect Prevention Board .....	<u>250,000</u>	<u>208,000</u>	<u>458,000</u>

21. CHIROPRACTIC EXAMINERS, ALABAMA STATE BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....			59,630
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The appropriation to the Alabama State Board of Chiropractic Examiners shall include a transfer to the State Personnel Department of \$81.

## SOURCE OF FUNDS:

(1) Alabama State Board of Chiropractic Examiner's Fund .....	59,630	
As provided in Section 34-24-143, Code of Alabama 1975.		
Total Alabama State Board of Chiropractic Examiners .....	<u>59,630</u>	<u>59,630</u>
22. CONSERVATION AND NATURAL RESOURCES, DEPARTMENT OF:		
(a) State Land Management Program .....		479,140
(b) Outdoor Recreation Sites and Services Program .....		13,046,105
(c) Marine Police Program .....		2,164,043
(d) Game and Fish Program .....		11,573,640
Of the above appropriation \$75,000 shall be used for a feasibility study and capital outlay for in- land port(s).		
(e) Marine Resources Program ....		1,716,340
Of the above appropriation, \$200,000 shall be expended for the relocation of polluted live oysters in Mobile Bay in the event that the relocation has not been completed by October 1, 1985. In the event that the re- location of polluted live oysters has been started but not com- pleted on October 1, 1985, the amount necessary to fund the difference between \$200,000 and the amount previously expended for that purpose is hereby appro- priated.		
(f) Land and Water Conservation Program .....		1,200,000
(g) Administrative Services Program .....		2,335,606
(h) Land Survey Program .....		342,387

The appropriation to the Department of Conservation and Natural Resources shall include Alabama's pro rata share of the Gulf States Marine Fisheries Commission operating expenses.

(i) Dothan Landmarks

Foundation .....	25,000
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The appropriation to the Department of Conservation and Natural Resources shall include a transfer to the State Personnel Department of \$85,475.

SOURCE OF FUNDS:

(1) State General Fund-Transfer- State Parks .....	1,375,000
(2) Alabama Recreation Capital Development Fund .....	785,000
(3) Game and Fish Fund .....	11,573,640
(4) State Lands Fund .....	479,140

The funds hereinabove appropriated from the State Lands Fund includes funds for analyzing, cataloging and monitoring mineral reserves and the development thereof on State lands including water and offshore areas.

(5) Marine Resources Fund .....	1,716,340
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In addition to the monies hereinabove appropriated from the Marine Resources Fund, all monies derived from contracts, grants or other agreements concerning or relating to marine biological research performed or accomplished at the Marine Resources Division Laboratory at Dauphin Island is hereby appropriated and may be expended by the Commissioner of Conservation on such Marine Resources

Division Programs or projects  
which he deems appropriate.

(6) Marine Police Fund .....	2,164,043
(7) State Parks Fund .....	331,920
(8) Parks Revolving Fund .....	10,079,185
(9) Administrative Funds .....	2,335,606

The funds hereinabove appropri-  
ated shall be payable as provided  
in Section 9-2-1 et seq., Code of  
Alabama 1975.

(10) Cigarette Tax .....	500,000
(11) Land Survey Fund .....	342,387
(12) Federal Land and Water Fund .....	<u>1,200,000</u>

Total Department of Conservation and Natural Resources .....	<u>1,375,000</u>	<u>31,507,261</u>	<u>32,882,261</u>
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### 23. CONTRACTORS, STATE LICENSING BOARD FOR GENERAL:

(a) Professional and Occupational Licensing and Regulation Program .....	317,524
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The appropriation to the State Li-  
censing Board for General Con-  
tractors shall include a transfer  
to the State Personnel Depart-  
ment of \$445.

#### SOURCE OF FUNDS:

(1) State Licensing Board for General Contractors Fund .....	317,524
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Pursuant to Section 34-8-25, Code  
of Alabama 1975. In addition  
to the amounts appropriated  
hereinabove to the State Licen-  
sing Board for General Contrac-  
tors, there is hereby appropriated  
such an amount as may be nec-  
essary to pay the refund of any  
application for license which may  
have been rejected by the Board

or application withdrawn by request of applicant.

Total State Licensing Board for General Contractors .....	<u>317,524</u>	<u>317,524</u>
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23A. CAHABA ADVISORY COMMITTEE:

(a) Historical Resources Management Program—Operations .....		10,000
(b) Cahaba Historical Site—Capital Outlay .....		40,000

SOURCE OF FUNDS:

(1) STATE GENERAL FUND ..	<u>50,000</u>	
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TOTAL CAHABA ADVISORY COMMITTEE .....	<u>50,000</u>	<u>50,000</u>
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24. CORRECTIONS, DEPARTMENT OF:

(a) Administrative Services and Logistical Support Program .....		7,700,000
(b) Institutional Services Corrections Program .....		93,993,300
(c) Correctional Industries Program .....		11,885,455

The appropriation to the Department of Corrections shall include a transfer to the State Personnel Department of \$185,546.

SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	101,543,300	
(2) Department of Corrections Fund .....		12,035,455

The Commissioner of the Department of Corrections is authorized to utilize funds herein appropriated as matching contributions, where required and appropriate, to generate additional funds which would effectively increase the appropriations for the Department

of Corrections. Any such grant funds so generated and in direct support of the Department of Corrections' operations are also hereby appropriated.

Total Department of Corrections .....	<u>101,543,300</u>	<u>12,035,455</u>	<u>113,578,755</u>
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25. COSMETOLOGY, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....			464,000
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The appropriation to the Alabama Board of Cosmetology shall include a transfer to the State Personnel Department of \$809.

SOURCE OF FUNDS:

(1) Alabama Board of Cosmetology Fund .....	464,000		
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As provided in Section 34-7-42, Code of Alabama 1975.

Total Alabama Board of Cosmetology .....	<u>464,000</u>	<u>464,000</u>	
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25. COUNSELING, ALABAMA BOARD OF EXAMINERS IN:

(a) Professional and Occupational Licensing and Regulation Program .....			44,100
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SOURCE OF FUNDS:

(1) Alabama Board of Examiners in Counseling Fund .....	44,100		
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As provided in Section 34-8A-6, Code of Alabama 1975.

Total Alabama Board of Examiners in Counseling .....	<u>44,100</u>	<u>44,100</u>	
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27. CRIME VICTIMS COMPENSATION COMMISSION, ALABAMA:

(a) Special Services Program, Estimated .....			321,151
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## SOURCE OF FUNDS:

(1) Alabama Crime Victims Compensation Commission Fund, Estimated .....	321,151		
To be expended in accordance with Act No. 84-658.			
Total Alabama Crime Victims Compensation Commission ..	<u>321,151</u>	<u>321,151</u>	

## 28. CRIMINAL JUSTICE INFORMATION CENTER, ALABAMA:

(a) Criminal Justice Information Services Program .....	2,875,188		
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The appropriation to the Alabama Criminal Justice Information Center shall include a transfer to the State Personnel Department of \$3,477.

## SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	2,292,000		
(2) Federal, Local and Miscellaneous Funds .....	<u>583,188</u>		
Total Alabama Criminal Justice Information Center .....	<u>2,292,000</u>	<u>583,188</u>	<u>2,875,188</u>

## 29. DEVELOPMENT OFFICE, ALABAMA:

(a) Promotional Development Program—Alabama Film Commission .....	234,000		
(b) Administrative Services Program—Office of Minority Business .....	111,695		
(c) Industrial Development Program—Alabama Development Office .....	3,139,640		

Of the above appropriation, \$25,000 shall be expended for rural cultural support. The appropriation to the Alabama

Development Office shall include a transfer to the State Personnel Department of \$2,426.

**SOURCE OF FUNDS:**

(1) State General Fund-Transfer-Alabama Development Office .....	3,089,640		
(2) State General Fund-Transfer-Office of Minority Business .....	100,000		
(3) State General Fund-Transfer-Alabama Film Commission .....	234,000		
(4) Federal, Local and Miscellaneous Funds .....		<u>61,695</u>	
Total Alabama Development Office .....	<u>3,423,640</u>	<u>61,695</u>	<u>3,485,335</u>

**30. DISTRICT ATTORNEYS:**

(a) Court Operations Program	10,840,500
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The proposed spending plan included in the above total is as follows:

**Salaries of District**

Attorneys .....2,223,154

Salary of elected Deputy District Attorney of the Bessemer Division of the 10th Judicial Circuit .....55,178

For the use of the elected Assistant District Attorney of the Bessemer Division of the 10th Judicial Circuit .....129,413

**Salaries and expenses of Supernumerary District**

Attorneys .....892,320

For use in the District Attorney's Office of the 1st Judicial Circuit .....114,310

For use in the District Attorney's Office of the 2nd Judicial Circuit .....100,705



For use in the District Attorney's Office of the 3rd Judicial Circuit .....	169,487
For use in the District Attorney's Office of the 4th Judicial Circuit .....	396,955
For use in the District Attorney's Office of the 5th Judicial Circuit .....	343,016
For use in the District Attorney's Office of the 6th Judicial Circuit .....	282,334
For use in the District Attorney's Office of the 7th Judicial Circuit .....	220,125
For use in the District Attorney's Office of the 8th Judicial Circuit .....	172,124
For use in the District Attorney's Office of the 9th Judicial Circuit .....	137,632
For use in the District Attorney's Office of the 10th Judicial Circuit .....	432,465
For use in the District Attorney's Office of the 11th Judicial Circuit .....	122,902
For use in the District Attorney's Office of the 12th Judicial Circuit .....	263,092
For use in the District Attorney's Office of the 13th Judicial Circuit .....	407,889
For use in the District Attorney's Office of the 14th Judicial Circuit .....	127,403
For use in the District Attorney's Office of the 15th Judicial Circuit .....	402,699
For use in the District Attorney's Office of the 16th Judicial Circuit .....	193,606

For use in the District Attorney's Office of the 17th Judicial Circuit .....	85,015
For use in the District Attorney's Office of the 18th Judicial Circuit .....	212,633
For use in the District Attorney's Office of the 19th Judicial Circuit .....	161,869
For use in the District Attorney's Office of the 20th Judicial Circuit .....	193,625
For use in the District Attorney's Office of the 21st Judicial Circuit .....	146,714
For use in the District Attorney's Office of the 22nd Judicial Circuit .....	127,578
For use in the District Attorney's Office of the 23rd Judicial Circuit .....	321,953
For use in the District Attorney's Office of the 24th Judicial Circuit .....	120,389
For use in the District Attorney's Office of the 25th Judicial Circuit .....	115,768
For use in the District Attorney's Office of the 26th Judicial Circuit .....	196,878
For use in the District Attorney's Office of the 27th Judicial Circuit .....	160,615
For use in the District Attorney's Office of the 28th Judicial Circuit .....	198,361
For use in the District Attorney's Office of the 29th Judicial Circuit .....	218,784
For use in the District Attorney's Office of the 30th Judicial Circuit .....	183,552

For use in the District Attorney's Office of the 31st Judicial Circuit .....118,773

For use in the District Attorney's Office of the 32nd Judicial Circuit .....153,552

For use in the District Attorney's Office of the 33rd Judicial Circuit .....151,726

For use in the District Attorney's Office of the 34th Judicial Circuit .....104,881

For use in the District Attorney's Office of the 35th Judicial Circuit .....99,902

For use in the District Attorney's Office of the 36th Judicial Circuit .....101,050

For use in the District Attorney's Office of the 37th Judicial Circuit .....155,872

For use in the District Attorney's Office of the 38th Judicial Circuit .....143,485

For use in the District Attorney's Office of the 39th Judicial Circuit .....105,716

Appropriations of Salaries of Personnel Established by Statute are estimated. Travel Expense of District Attorneys ..... 75,0000  
10,840,500

#### SOURCE OF FUNDS:

(1) State General Fund ..... 10,840,500

Total District Attorneys ..... 10,840,500 10,840,500

#### 31. ECONOMIC AND COMMUNITY AFFAIRS, ALABAMA DEPARTMENT OF:

(a) Administrative Support Services Program ..... 4,573,370

(b) Planning Program .....	37,273,014
(c) Special Services Program ...	24,461,568
(d) Skills Enhancement and Employment Opportunities Program .....	65,471,322

Of the above appropriation,  
\$15,000 shall be allocated to  
Mobile Community Action,  
Inc. for job education train-  
ing.

(e) Energy Management Program .....	7,323,758
(f) Traffic Control and Acci- dent Prevention Program .....	3,040,586
(g) Law Enforcement Planning and Development Program ...	1,791,138

Of the above appropriation to  
the Law Enforcement Plan-  
ning and Development Pro-  
gram, \$40,000 shall be  
allocated to the Marshall  
County Attention Home,  
\$20,000 shall be allocated to  
Glory House and \$10,000 shall  
be allocated to the Teenage  
Crisis Center of Selma.

(h) Surplus Property Program	1,397,035
(i) Regional Planning Commis- sion Program .....	300,000

The appropriation to the Ala-  
bama Department of Eco-  
nomic and Community Affairs  
shall include a transfer to the  
State Personnel Department  
of \$26,686.

#### SOURCE OF FUNDS:

(1) State General Fund-Trans- fer—Alabama Department of Economic and Community Affairs .....	6,684,755
(2) Federal, Local and Miscella- neous Funds.....	133,076,631

(3) Administrative Transfers ...	4,573,370		
(4) Administrative Transfer from Federal Surplus Property .....	1,084,008		
(5) Administrative Transfers from Sale of State Owned Surplus Property .....	<u>213,027</u>		
Total Alabama Department of Economic and Community Affairs .....	<u>6,684,755</u>	<u>138,947,036</u>	<u>145,631,791</u>
32. ELK RIVER DEVELOP- MENT AGENCY:			
(a) Water Resource Develop- ment Program .....			410,700
SOURCE OF FUNDS:			
(1) State General Fund .....	4,700		
(2) Federal, Local and Miscel- laneous Funds .....		<u>406,000</u>	
Total Elk River Development Agency .....	<u>4,700</u>	<u>406,000</u>	<u>410,700</u>
33. EMERGENCY MANAGE- MENT AGENCY:			
(A) Readiness and Recovery Program .....			3,462,401
Of the above appropriation, \$100,000 shall be utilized for dam inspection. The appro- priation to the Emergency Management Agency shall in- clude a transfer to the State Personnel Department of \$3,113.			
SOURCE OF FUNDS:			
(1) State General Fund- Transfer .....	881,200		
(2) Federal, Local and Miscel- laneous Funds .....		<u>2,581,201</u>	
Total Emergency Management Agency .....	<u>881,200</u>	<u>2,581,201</u>	<u>3,462,401</u>
34. ENGINEERS AND LAND			

SURVEYORS, STATE  
BOARD OF REGISTRA-  
TION FOR PROFES-  
SIONAL:

- (a) Professional and Occupa-  
tional Licensing and Regula-  
tion Program ..... 335,462

The appropriation to the State  
Board of Registration for  
Professional Engineers and  
Land Surveyors shall include  
a transfer to the State Per-  
sonnel Department of \$283.

SOURCE OF FUNDS:

- (1) Professional Engineers'  
Fund ..... 335,462
- As provided in Section 34-11-  
36, Code of Alabama 1975.
- Total State Board of Registra-  
tion for Professional Engi-  
neers and Land Surveyors .... 335,462 335,462

35. ENVIRONMENTAL  
MANAGEMENT, DEPART-  
MENT OF:

- (a) Environmental Manage-  
ment Program ..... 9,118,340
- (b) Special Projects Program ... 400,000

The appropriation to the De-  
partment of Environmental  
Management shall include a  
transfer to the State Person-  
nel Department of \$18,559.

SOURCE OF FUNDS:

- (1) State General Fund-  
Transfer ..... 2,950,000
- (2) Environmental Manage-  
ment Fees and Fines ..... 1,485,000
- As provided in Section 22-22A-  
11, Code of Alabama 1975  
(1983 Cum. Supp.).
- (3) Federal Funds ..... 5,083,340

Total Department of Environmental Management .....	<u>2,950,000</u>	<u>6,568,340</u>	<u>9,518,340</u>
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### 36. ETHICS COMMISSION, ALABAMA:

(a) Regulation of Public Officials and Employees Program .....			285,900
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The appropriation to the Ethics Commission shall include a transfer to the State Personnel Department of \$526.

#### SOURCE OF FUNDS:

(1) State General Fund .....	<u>285,900</u>		
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Total Alabama Ethics Commission .....	<u>285,900</u>		<u>285,900</u>
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### 37. FARMERS' MARKET AUTHORITY:

(a) Agricultural Development Services Program .....			<u>128,059</u>
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The appropriation to the Farmers' Market Authority shall include a transfer to the State Personnel Department of \$202.

#### SOURCE OF FUNDS:

(1) State General Fund-Transfer For Administration .....	80,700		
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(2) Farmers' Market Authority Fund—Revenue and Capital Outlay Account .....		<u>47,359</u>	
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Total Farmers' Market Authority .....	<u>80,700</u>	<u>47,359</u>	<u>128,059</u>
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### 38. FINANCE, DEPARTMENT OF:

(a) Fiscal Management Program .....			3,240,635
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(b) Administrative Support Services Program .....			4,736,057
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(c) Hiring of Additional Personnel for Purchasing Division .....	25,000
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The appropriation to the Department of Finance shall include a transfer to the State Personnel Department of \$40,514.

**SOURCE OF FUNDS:**

(1) State General Fund .....	7,951,692		
(2) Miscellaneous Funds .....		<u>50,000</u>	
Total Department of Finance ..	<u>7,951,692</u>	<u>50,000</u>	<u>8,001,692</u>

**39. FINANCE, DEPARTMENT OF—STATE INSURANCE FUND:**

(a) Administrative Support Services Program .....	10,130,669
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**SOURCE OF FUNDS:**

(1) State Insurance Fund .....	10,130,669
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As provided in Sections 41-15-1 through 13, Code of Alabama 1975.

Total Department of Finance—State Insurance Fund .....	<u>10,130,660</u>	<u>10,130,669</u>
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**40. FOREIGN TRADE RELATIONS COMMISSION:**

(a) Special Services Program ..	84,000
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The appropriation to the Foreign Trade Relations Commission shall include a transfer to the State Personnel Department of \$121.

**SOURCE OF FUNDS:**

(1) State General Fund .....	<u>84,000</u>	
Total Foreign Trade Relations Commission .....	<u>84,000</u>	<u>84,000</u>

**41. FORENSIC SCIENCES, DEPARTMENT OF:**

(a) Forensic Science Service Program .....	6,042,000
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The appropriation to the Department of Forensic Sciences shall include a transfer to the State Personnel Department of \$7,642.

**SOURCE OF FUNDS:**

(1) State General Fund .....	5,091,000		
(2) State General Fund—Capital Outlay .....	700,000		
(3) Federal, Local and Miscellaneous Funds .....		<u>251,000</u>	
Total Department of Forensic Sciences .....	<u>5,791,000</u>	<u>251,000</u>	<u>6,042,000</u>

**42. FORESTERS, ALABAMA STATE BOARD OF REGISTRATION FOR:**

(a) Professional and Occupational Licensing and Regulation Program .....			17,900
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**SOURCE OF FUNDS:**

(1) Professional Foresters' Fund .....	17,900		
As provided in Section 34-12-36, Code of Alabama 1975.			
Total Alabama State Board of Registration for Foresters .....		<u>17,900</u>	<u>17,900</u>

**43. FORESTRY COMMISSION, ALABAMA:**

(a) Forest Resource Protection Program .....		11,749,780	
(b) Forest Resource Development Program .....		2,987,530	
(c) Administrative Services Program .....		2,717,690	

Of the above appropriation to the Alabama Forestry Commission, \$200,000 shall be used for the construction of a new 7th District Forestry Headquarters and shop in Escambia County. The appropriation

to the Alabama Forestry Commission shall include a transfer to the State Personnel Department of \$33,236.

#### SOURCE OF FUNDS:

(1) State General Fund—	
Transfer .....	9,200,000
(2) Federal and Local Funds ...	2,337,000
(3) Forestry Commission	
Fund .....	5,918,000

Of the above appropriations, \$650,000 shall be used for rural and community fire protection.

Total Alabama Forestry			
Commission .....	<u>9,200,000</u>	<u>8,255,000</u>	<u>17,455,000</u>

Of the above appropriation of the Alabama Forestry Commission, there is hereby granted authority to spend up to \$250,000 for the purchase and development of a forest tree nursery. In addition to the above appropriation to the Alabama Forestry Commission, there is hereby conditionally appropriated \$350,000 for capital outlay from the Alabama Forestry Commission Fund contingent on the satisfactory sale of certain present property where the Birmingham District Headquarters is located in Jefferson County. The proceeds from said sale shall be covered into the Alabama Forestry Commission Fund. The above conditional appropriation shall be used to purchase land, building(s), and/or construction of building(s) in order to relocate the Birmingham District Headquarters. This conditional appropriation shall become absolute when said sale is concluded, recommended by the Finance Director and approved by the Governor. There is hereby appropriated \$100,000 to the Forestry Commission for the purchase of aircraft for forest fire surveillance for District 3 to be conditioned on the availability of funds in the State General Fund and the approval of the Governor.

#### 44. FUNERAL SERVICES, ALABAMA BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....	110,000
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The appropriation to the Alabama Board of Funeral Service shall include a transfer to

the State Personnel Department of \$121.

**SOURCE OF FUNDS:**

(1) Alabama Funeral Directors and Embalmers Fund .....	110,000	
As provided in Section 34-13-23, Code of Alabama 1975, as amended.		
Total Alabama Board of Funeral Service .....	<u>110,000</u>	<u>110,000</u>

**45. GEOLOGICAL SURVEY:**

(a) Discovery and Development of Mineral, Energy and Water Resources, Geologic Research and Topographic Mapping Program. ....	2,207,061
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Of the above appropriation, a sufficient amount not exceeding \$20,000 shall be used for a ground water survey in Baldwin County.

The appropriation to the Geological Survey shall include a transfer to the State Personnel Department of \$5,378.

**SOURCE OF FUNDS:**

(1) State General Fund .....	1,711,768	
(2) Federal, Local and Miscellaneous Funds .....	<u>495,293</u>	
Total Geological Survey .....	<u>1,711,768</u>	<u>495,293</u>
		<u>2,207,061</u>

**46. GORGAS MEMORIAL BOARD:**

(a) Historical Resources Management Program .....	12,700
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**SOURCE OF FUNDS:**

(1) State General Fund .....	8,700
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As provided in Section 41-9-220, Code of Alabama 1975 and an additional amount.

(2) Federal, Local and Miscellaneous Funds .....		<u>4,000</u>	
Total Gorgas Memorial Board .....	<u>8,700</u>	<u>4,000</u>	<u>12,700</u>
47. GOVERNOR'S CONTINGENCY FUND:			
(a) Executive Direction Program .....			400,000
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>400,000</u>		
Total Governor's Contingency Fund .....	<u>400,000</u>		<u>400,000</u>
48. GOVERNOR'S MANSION ADVISORY BOARD:			
(a) Historical Resources Management Program .....			10,000
SOURCE OF FUNDS:			
(1) State General Fund-Transfer .....	<u>10,000</u>		
Total Governor's Mansion Advisory Board .....	<u>10,000</u>		<u>10,000</u>
49. GOVERNOR'S MANSION AND COASTAL MANSION:			
(a) Executive Direction Program .....			200,000
SOURCE OF FUNDS:			
(1) State General Fund .....	200,000		
Total Governor's Mansion and Coastal Mansion .....	<u>200,000</u>		<u>200,000</u>
50. GOVERNOR'S OFFICE:			
(a) Executive Direction Program .....			1,530,000
The appropriation to the Governor's Office shall include a transfer to the State Personnel Department of \$2,264.			
SOURCE OF FUNDS:			
(1) State General Fund .....	<u>1,530,000</u>		

Total Governor's Office .....	<u>1,530,000</u>	<u>1,530,000</u>
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51. GOVERNOR'S OFFICE-  
LEGAL:

(a) Executive Direction Program .....		102,000
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SOURCE OF FUNDS:

(1) State General Fund .....	102,000	
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Total Governor's Office-Legal ..	<u>102,000</u>	<u>102,000</u>
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52. GOVERNOR'S VOLUN-  
TARY CITIZEN PARTICI-  
PATION:

(a) Executive Direction Program .....		50,000
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SOURCE OF FUNDS:

(1) Federal Funds .....	<u>50,000</u>	
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Total Governor's Voluntary Cit- izen Participation .....	<u>50,000</u>	<u>50,000</u>
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53. HEALTH, DEPART-  
MENT OF PUBLIC:

(a) Personal Health Improve- ment Program .....		53,163,254
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(b) Health Support Services Program .....		49,737,644
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Of this amount \$7,087,171 shall go to support local health department services of which \$3,685,000 shall be used to provide a minimum staff in each of the sixty-seven counties, and the remaining amount shall be distributed on a one-to-one match with locally appropriated funds for the support of local health services on a per capita basis. At the end of the first quarter, any unmatched funds may be distributed to other counties with appropriate matching funds.

## (c) Administrative Services

Program .....		6,029,415
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The appropriation to the Department of Public Health shall include a transfer to the State Personnel Department of \$146,731.

## SOURCE OF FUNDS:

(1) State General Fund .....	16,300,000	
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(2) Cigarette Tax-.01 .....		1,000,001
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As provided in Section 40-25-2 and Section 40-25-23, Code of Alabama 1975, as amended.

(3) Cigarette Tax-.02 .....		2,200,000
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As provided in Section 40-25-2 and Section 40-25-23, Code of Alabama 1975, as amended.

(4) Vital Statistics Fund .....		1,582,711
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(5) Hospital Licensing Fund ...		205,000
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(6) Emergency Medical Services Fund .....		40,000
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As provided in Section 22-18-4, Code of Alabama 1975.

(7) Local Health Departments. ....	32,000,000	
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(8) Nuclear Monitoring Fund ..	227,985	
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(9) Radiation Safety Fund .....	65,000	
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(10) Miscellaneous Funds .....	4,621,451	
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(11) Federal Funds .....	<u>50,688,165</u>	
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Total Department of Public Health .....	<u>16,300,000</u>	<u>92,630,313</u>	<u>108,930,313</u>
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## 54. HEALTH PLANNING AGENCY, STATE:

(a) Health Planning Development and Regulation Program .....		1,831,842
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The appropriation to the State Health Planning Agency shall include a transfer to the State Personnel Department of \$1,981.

## SOURCE OF FUNDS:

(1) State General Fund- Transfer .....	316,842		
(2) Certificate of Need Fees ....		200,000	
(3) Federal, Local and Miscel- laneous Funds .....		<u>1,315,000</u>	
Total State Health Planning Agency .....	<u>316,842</u>	<u>1,515,000</u>	<u>1,831,842</u>

55. HEARING AID DEAL-  
ERS, ALABAMA BOARD  
OF:

(a) Professional and Occupa- tional Licensing and Regula- tion Program .....			20,000
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## SOURCE OF FUNDS:

(1) State Board of Health- Hearing Aid Fund .....		20,000	
As provided in Section 34-14- 33, Code of Alabama 1975.			
Total Alabama Board of Hear- ing Aid Dealers .....		<u>20,000</u>	<u>20,000</u>

56. HEATING AND AIR  
CONDITIONING CON-  
TRACTORS, BOARD OF:

(a) Professional and Occupa- tional Licensing and Regula- tion Program .....			102,596
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The appropriation to the Board of Heating and Air Conditioning Contractors shall include a transfer to the State Personnel Department of \$162.

## SOURCE OF FUNDS:

(1) Heating and Air Condition- ing Contractors Fund .....		<u>102,596</u>	
Total Board of Heating and Air Conditioning Contractors .....		<u>102,596</u>	<u>102,596</u>

57. ALABAMA HERITAGE  
TRUST FUND:

(a) Fiscal Management Program .....			20,000
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## SOURCE OF FUNDS:

(1) Heritage Trust Income .....	20,000	
Total Alabama Heritage Trust Fund .....	<u>20,000</u>	<u>20,000</u>

## 58. HIGHWAY DEPARTMENT:

(a) Central Administration Program .....	10,177,557
(b) Division and District Supervision Program .....	18,676,716
(c) Operations & Support Services Program .....	7,929,725
(d) Maintenance Program .....	115,977,772
(e) Non-Programmatic Expenditures .....	84,513,197

Proposed Spending Plan for the above (e) includes the following:

Debt Service .....	83,632,769
Equipment-Road Machinery .....	22,000
Equipment-Other than Automotive .....	858,428

(f) Construction-Federal Aid Program .....	337,134,800
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Proposed Spending Plan for the above (f) includes the following:

Federal Aid Matching .....	49,377,800
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Non-Participating Work on Federal Projects .....	1,000,000
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Federal Aid .....	286,757,000
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(g) Construction-State Program .....	15,000,000
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(h) Operations-Land and Buildings .....	1,458,500
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The appropriation to the Highway Department shall include a transfer to the State Personnel Department of \$321,481.



## SOURCE OF FUNDS:

(1) State General Fund-	
Transfer .....	90,250
(2) Public Road and Bridge	
Fund .....	304,021,017
(3) Federal Aid .....	286,757,000

There is hereby appropriated, for payment of the principal of and the interest on all bonds heretofore or hereafter issued for public highways and bridge purposes, or either, by the State of Alabama, Alabama Highway Authority, Alabama Federal Aid Highway Finance Authority, or Alabama Highway Finance Corporation, a total of \$83,632,769 or so much as may be necessary for payment of said principal and interest at their respective maturities, of the revenues pledged for such payment.

The Highway Director with the consent of the Governor and the Finance Director shall have the authority to transfer any appropriation or any portion thereof between and among Subsections, (a), (b), (c), (d), (e), (f), (g), (h), of this Section whenever such transfer shall be necessary to assure maximum utilization of Federal Matching Funds which shall become available. In the event that there shall not be sufficient funds available for payment of all appropriations hereinabove made, the following provisions shall be applicable. In the event of such insufficiency in respect of the said revenues accruing to the State Highway Department:

(1) the appropriations made for Debt Service in Subsection (e) hereof shall be paid in full.

(2) the appropriations from the revenues accruing to the State Highway Department that are herein made for the purposes referred to in Subsections (a), (b), (c), (d), (e), (f), (g), (h) except for Debt Service, hereof shall be allocated among the purposes referred to in said Subsections in such order and with such priorities as the State Highway Director shall from time to time direct. The funds appropriated in Subsection (f) hereof, for the matching Federal Funds, shall not revert at the end of the fiscal year for which such appropriations are made, but shall remain available for the purpose for which such appropriation was made. In addition to all appropriations hereinabove made there is hereby appropriated to the State Highway Department all Federal Funds accruing thereto to be expended only for the purpose for which such funds are made available.

Total Highway Department .....	90,250	590,778,017	590,868,267
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59. HISTORIC BLAKELEY  
AUTHORITY:

(a) Tourism and Travel Pro- motion Program .....	200,010
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## SOURCE OF FUNDS:

(1) State General Fund .....	130,000		
(2) Federal, Local and Miscellaneous Funds .....		<u>70,010</u>	
Total Historic Blakeley Authority .....	<u>130,000</u>	<u>70,010</u>	<u>200,010</u>

## 60. HISTORIC CHATTAHOOCHIE COMMISSION:

(a) Historical Resources Management Program .....			158,500
(b) Capital Outlay .....			100,000

## SOURCE OF FUNDS:

(1) State General Fund .....	189,500		
(2) Federal, Local and Miscellaneous Funds .....		<u>69,000</u>	
Total Historic Chattahoochee Commission .....	<u>189,500</u>	<u>69,000</u>	<u>258,500</u>

## 61. HISTORICAL COMMISSION, ALABAMA:

(a) Historical Resources Management Program .....			1,372,601
(b) Historical Resources Management Program-Capital Outlay .....			500,000

The appropriation to the Alabama Historical Commission shall include a transfer to the State Personnel Department of \$3,315.

## SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	727,634
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The State General Fund appropriation shall be distributed as follows:

Historical Commission, Alabama .....	502,705
Historical Commission, Alabama-La Grange .....	8,140

Historical Commission, Alabama-Richard P. Hobson Memorial Board .....	5,994		
Historical Commission, Alabama-Fort Morgan ...	115,545		
Historical Commission, Alabama-Fort Toulouse ...	21,250		
Historical Commission, Alabama-John T. Morgan House, Selma .....	12,000		
Historical Commission, Alabama-Kennedy House, Abbeville .....	12,000		
Historical Commission, Alabama-Gorgas House, Tuscaloosa .....	10,000		
Northeast Alabama Historical Program .....	25,000		
The Progressive League of Mobile .....	10,000		
Old Spanish Fort Foundation .....	5,000		
(2) State General Fund-Transfer-Capital Outlay .....		500,000	
The State General Fund-Transfer for Capital Outlay shall be distributed as follows:			
Bellamonte .....	250,000		
Cahaba .....	200,000		
Octagon House .....	50,000		
(3) Federal, Local and Miscellaneous Funds .....		<u>644,967</u>	
Total Alabama Historical Commission .....	<u>1,227,634</u>	<u>644,967</u>	<u>1,872,601</u>
62. INDIAN AFFAIRS COMMISSION, ALABAMA:			
(a) Social Services Program ....			140,000
The above appropriation is to be expended in accordance with Act No. 84-257.			

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>140,000</u>	
Total Alabama Indian Affairs Commission .....	<u>140,000</u>	<u>140,000</u>

## 63. INDUSTRIAL RELATIONS, DEPARTMENT OF:

(a) Unemployment Compensation Program .....		16,656,189
(b) Skills Enhancement and Employment Opportunities Program .....		20,847,623
(c) Industrial Safety and Accident Prevention Program .....		3,297,404
(d) Administrative Services Program .....		8,605,085
(e) Employment and Social Opportunities Program .....		383,221
(f) Workmen's Compensation Program .....		544,828

The appropriation to the Department of Industrial Relations shall include a transfer to the State Personnel Department of \$152,917.

## SOURCE OF FUNDS:

(1) State General Fund .....	1,305,906		
(2) Federal, Local and Miscellaneous Funds .....		<u>49,028,444</u>	
Total Department of Industrial Relations .....	<u>1,305,906</u>	<u>49,028,444</u>	<u>50,334,350</u>

## 64. INSURANCE, DEPARTMENT OF:

(a) Regulatory Services Program .....		1,752,914
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The appropriation to the Department of Insurance shall include a transfer to the State Personnel Department of \$4,690.

## SOURCE OF FUNDS:

(1) State General Fund .....	1,433,000	
(2) Fire Marshals' Fund .....		319,914

As provided in Section 24-5-10,  
Code of Alabama 1975, as  
amended. Any balance in ex-  
cess of \$50,000 at the end of  
the fiscal year shall be trans-  
ferred to the State General  
Fund.

Total Department of Insurance .....	<u>1,433,000</u>	<u>319,914</u>	<u>1,752,914</u>
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65. INSURANCE BOARD,  
STATE EMPLOYEES':

(a) Administrative Support Services Program .....		78,000
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The appropriation to the State  
Employees' Insurance Board  
shall include a transfer to the  
State Personnel Department  
of \$81.

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>78,000</u>	
Total State Employees' Insur- ance Board .....	<u>78,000</u>	<u>78,000</u>

In addition to the above appro-  
priation to the Employees' In-  
surance Board, there is hereby  
conditionally appropriated  
\$800,000 from the State Gen-  
eral Fund to be conditional  
upon the passage of legislation  
authorizing the partial fund-  
ing of the cost of coverage for  
health insurance for retired  
state employees. These funds  
are also conditional upon the  
availability of funds and shall  
remain in the State General  
Fund until a demonstrated

need is determined and recommended by the Finance Director and approved by the Governor.

66. INTERIOR DESIGNERS,  
ALABAMA STATE BOARD  
OF REGISTRATION FOR:

(a) Professional and Occupational Licensing and Regulation Program .....	5,700
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SOURCE OF FUNDS:

(1) Interior Designers Fund .....	5,700
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As provided in Section 34-15A-7, Code of Alabama 1975 (1983 Cum. Supp.).

Total Alabama State Board of Registration for Interior Designers .....	5,700	5,700
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67. INTERNATIONAL  
TRADE, OFFICE OF:

(a) Special Projects Program ...	500,000
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To be expended in accordance with Executive Order Number 31, dated September 30, 1984.

SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	250,000
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(2) Federal, Local and Miscellaneous Funds .....	250,000
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Total Office of International Trade .....	250,000	250,000	500,000
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68. LABOR, DEPARTMENT  
OF:

(a) Regulatory Services Program .....	381,300
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The appropriation to the Department of Labor shall include a transfer to the State Personnel Department of \$728.

## SOURCE OF FUNDS:

(1) State General Fund .....	332,300		
(2) Federal, Local and Miscellaneous Funds .....		<u>49,000</u>	
Total Department of Labor .....	<u>332,300</u>	<u>49,000</u>	<u>381,300</u>

## 69. LANDSCAPE ARCHITECTS, BOARD OF EXAMINERS OF:

(a) Professional and Occupational Licensing and Regulation Program .....			12,335
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## SOURCE OF FUNDS:

(1) Landscape Architects Fund .....		12,335	
As provided in Section 34-17-6, Code of Alabama 1975.			
Total Board of Examiners of Landscape Architects .....		<u>12,335</u>	<u>12,335</u>

## 70. LIQUEFIED PETROLEUM GAS BOARD:

(a) Regulatory Services Program .....			245,500
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The appropriation to the Liquefied Petroleum Gas Board shall include a transfer to the State Personnel Department of \$526.

## SOURCE OF FUNDS:

(1) Liquefied Petroleum Gas Board Fund .....		<u>245,500</u>	
Total Liquefied Petroleum Gas Board .....		<u>245,500</u>	<u>245,500</u>

## 71. MEDICAID AGENCY, ALABAMA:

(a) Medical Assistance through Medicaid Program .....			455,421,000
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The appropriation to the Alabama Medicaid Agency shall include a transfer to the State

Personnel Department of  
\$20,176.

**SOURCE OF FUNDS:**

(1) State General Fund- Transfer .....	105,872,373		
(2) Transfer from Pensions and Security .....		695,000	
(3) Transfer from Mental Health .....		18,743,200	
(4) Federal, Local and Miscel- laneous Funds .....		<u>330,110,427</u>	
Total Alabama Medicaid Agency.	<u>105,872,373</u>	<u>349,548,627</u>	<u>455,421,000</u>

**72. MENTAL HEALTH AND  
MENTAL RETARDATION,  
DEPARTMENT OF:**

(a) Institutional Treatment and Care-Mental Illness Program ....		82,273,114	
(b) Institutional Treatment and Care-Mental Retardation Program .....		65,486,245	
(c) Institutional Treatment and Care-Criminally Insane Program .....		5,028,446	
(d) Non-Institutional Treatment and Care Program .....		20,590,792	
(e) Administrative Services Program .....		4,689,493	
(f) Caradale Alcoholism Facility- Cheaha Mental Heath Center- For Capital Outlay .....		175,000	
(g) Special Community Mental Health Services Program .....		50,000	

The above appropriation shall be  
distributed as follows:

West Alabama Community Men-  
tal Health Center, \$30,000;  
Southwest Alabama Commu-  
nity Mental Health Center,  
\$20,000.



## (h) Community Mental Health

Program .....	24,191,662
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It is the intent of the Legislature that this appropriation be used to fund Community Mental Health and Mental Retardation Programs and that none of said appropriation be shifted to any other program.

The appropriation herein provided shall be for the provision of community mental illness and substance abuse programs and services operated by Mental Health/Mental Retardation Boards created pursuant to Section 22-51-1 et seq., Code of Alabama 1975, and certified by the Department of Mental Health and Mental Retardation. In the event that no such program is certified by the Department of Mental Health and Mental Retardation in a particular catchment area, funds under this appropriation may be expended through other certified community programs in said catchment area.

Of the appropriation hereinabove made to the Department of Mental Health and Mental Retardation, there shall be at least \$6,290,000 expended for the treatment of rehabilitation and for education on alcohol and drug abuse. In addition to the appropriation hereinabove made to the Department of Mental Health and Mental Retardation there is hereby conditionally appropriated the sum of \$7,500,000 to the Glen Ireland Mental Health Center to be conditioned on availability of funds and the approval of the Governor.

The appropriation to the Department of Mental Health and Mental Retardation shall include a transfer to the State Personnel Department of \$386,538.

## SOURCE OF FUNDS:

(1) Special Mental Health Trust	
Fund .....	114,713,693
For Operations and Maintenance	
of the State Mental Health and	
Mental Retardation Department	
including the purchase of	
drugs for medically indigent	
mental patients not hospitalized	
at time of receiving drugs at the	
Alabama State Hospitals.	
(2) Special Mental Health Trust	
Fund-Community Programs ....	11,589,282
(3) Transfer from ABC Profits ....	1,000,000
(4) Cigarette Tax .....	6,539,000
(5) Transfer from Pensions and	
Security-Title XX Funds-Com-	
munity Programs .....	4,500,000

(6) Federal, Local and Miscellaneous Funds .....	64,142,777	
Total Department of Mental Health and Mental Retardation .....	<u>202,484,752</u>	<u>202,484,752</u>
73. MILITARY DEPARTMENT:		
(a) Military Operations Program		5,750,000
(b) Capital Outlay .....		1,450,000
The appropriation to the Military Department shall include a transfer to the State Personnel Department of \$13,060.		
SOURCE OF FUNDS:		
(1) State General Fund-Operations .....	1,725,813	
(2) State General Fund-Quarterly Allowances Headquarters-Regular Allowance Units to be used solely for operating expenses; provided, that no more than \$4,500 shall be allotted in any fiscal year for the Alabama National Guard Headquarters .....	1,484,000	
(3) State General Fund-Transfer-Capital Outlay for Architect and Engineering Services and specifications and construction of facilities .....	1,450,000	
(4) State General Fund-Active Military Service .....	123,900	
(5) State General Fund-Transfer to Armory Commission .....	2,404,287	
(6) State General Fund-Dropping Allowance .....	5,000	
(7) State General Fund-State Defense Force .....	<u>7,000</u>	
Total Military Department .....	<u>7,200,000</u>	<u>7,200,000</u>
74. MILITARY DEPARTMENT-ARMORY COMMISSION OF ALABAMA:		
(a) Military Operations Program		4,241,229

## SOURCE OF FUNDS:

(1) Transfer from Military Department .....	2,404,287
(2) Federal, Local and Miscellaneous Funds .....	1,836,942

The funds hereinabove appropriated to the Armory Commission shall be payable from the funds in the State Treasury to the credit of the Armory Commission and the appropriation hereinabove made includes the appropriation made for the care, maintenance, and construction of facilities.

Provided, however, that the last Federal Government service contract reimbursement shall not revert to the State General Fund. Any surplus remaining in the Armory Commission Fund at the end of the fiscal year in excess of \$50,000 shall be transferred to the State General Fund.

Total Armory Commission of Alabama .....	<u>4,241,229</u>	<u>4,241,229</u>
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## 74-A. ALABAMA MILITARY HALL OF HONOR:

(a) Special Services Program .....	50,000
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The above appropriation to the Alabama Military Hall of Honor at Marion Military Institute is a one-time appropriation for capital outlay and is pursuant to Executive Order #59, dated 1-23-1975.

## SOURCE OF FUNDS

(1) State General Fund-Capital Outlay .....	<u>50,000</u>
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Total Alabama Military Hall of Honor .....	50,000	50,000
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75. MOTOR SPORTS HALL OF FAME:

(a) Tourism and Travel Promotion Program .....	186,200
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SOURCE OF FUNDS:

(1) State General Fund .....	100,000
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(2) Federal and Miscellaneous Fund .....	86,200
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Total Motor Sports Hall of Fame	100,000	86,200	186,200
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76. MUSIC HALL OF FAME BOARD:

(a) Fine Arts Program .....	210,000
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(b) Research Library on Southern Music .....	50,000
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SOURCE OF FUNDS:

(1) State General Fund .....	150,000
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(2) Federal, Local and Miscellaneous Funds .....	110,000
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Total Music Hall of Fame Board	150,000	110,000	260,000
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77. NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS OF:

(a) Professional and Occupational Licensing and Regulation Program .....	40,000
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The appropriation to the Board of Examiners of Nursing Home Administrators shall include a transfer to the State Personnel Department of \$40.

SOURCE OF FUNDS:

(1) Board of Examiners of Nursing Home Administrators Fund .....	40,000
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As provided in Section 34-20-7, Code of Alabama 1975, as amended.

Total Board of Examiners of Nursing Home Administrators .....	<u>40,000</u>	<u>40,000</u>
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#### 78. OIL AND GAS BOARD:

(a) Management and Regulation of Oil and Gas Exploration and Development Program .....		2,127,432
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The appropriation to the Oil and Gas Board shall include a transfer to the State Personnel Department of \$3,882.

#### SOURCE OF FUNDS:

(1) State General Fund .....	2,107,432
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(2) Federal, Local and Miscellaneous Funds .....	<u>20,000</u>
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Total Oil and Gas Board .....	<u>2,107,432</u>	<u>20,000</u>	<u>2,127,432</u>
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#### 79. PARDONS AND PAROLES, BOARD OF:

(a) Administration of Pardons and Paroles Program .....		8,821,041
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The appropriation to the Board of Pardons and Paroles shall include a transfer to the State Personnel Department of \$19,691.

#### SOURCE OF FUNDS:

(1) State General Fund .....	6,993,615
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(2) Probationers Upkeep Fund ....	1,725,460
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In accordance with Section 15-22-2, Code of Alabama 1975.

(3) Federal, Local and Miscellaneous Funds .....	<u>101,966</u>
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Total Board of Pardons and Paroles .....	<u>6,993,615</u>	<u>1,827,426</u>	<u>8,821,041</u>
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#### 80. PEACE OFFICERS' ANNUITY AND BENEFIT FUND, ALABAMA:

(a) Retirement Systems Program .....		236,648
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The appropriation to the Alabama

Peace Officers' Annuity and Benefit Fund shall include a transfer to the State Personnel Department of \$283.

SOURCE OF FUNDS:

(1) Peace Officers' Annuity and Benefit Fund .....	236,648	
As provided in Section 36-21-66, Code of Alabama 1975		
Total Alabama Peace Officers' Annuity and Benefit Fund .....	<u>236,648</u>	<u>236,648</u>

81. PENSIONS AND SECURITY, DEPARTMENT OF:

(a) Economic Assistance Program .....	173,743,501
(b) Social Services Program .....	72,340,209

At least \$110,000 of the above appropriation shall be used to fund additional full-time caseworkers positions and an additional clerical position under the adoption services element. To the extent practicable, such additional positions shall be filled by persons currently employed within the Department of Pensions and Security.

(c) Title XX Transfer to the Department of Mental Health and Mental Retardation .....	4,500,000
(d) Client Services Allotment to County Departments of Pensions and Security .....	165,500

It is the intent of the Legislature that allotments be made to the county departments of Pensions and Security to fund, upon approval of the county department director, supplemental client services not otherwise provided for through existing programs of the Department of Pensions and Security. Allotments to the

county departments based on the counties' populations according to the 1980 census are as follows: county populations greater than 50,000, \$3,500; county populations less than 50,000, \$2,000.

The appropriation to the Department of Pensions and Security shall include a transfer to the State Personnel Department of \$345,337.

#### SOURCE OF FUNDS:

(1) Federal, Local and Miscellaneous Funds .....	170,058,183	
(2) ABC Profits .....	1,250,000	
(3) Whiskey Tax .....	18,900,000	
(4) Beer Tax .....	7,630,000	
(5) Pension Residue .....	12,360,000	
(6) Sales Tax .....	1,322,000	
(7) Franchise Tax .....	10,954,500	
(8) Contracts, Service Fees .....	60,000	
(9) Child Support Collections .....	1,423,000	
(10) Sales Tax for Food Stamps ..	16,252,827	
(11) Cigarette Tax .....	4,200,000	
(12) Contractor's Gross Receipts Tax .....	1,838,700	
(13) Title XX Funds-Transfer to the Department of Mental Health and Mental Retardation .....	<u>4,500,000</u>	
Total Department of Pensions and Security .....	<u>250,749,210</u>	<u>250,749,210</u>

#### 82. PERSONNEL DEPARTMENT, STATE:

(a) Administrative Support Program .....	2,400,000
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#### SOURCE OF FUNDS:

(1) Transfer from Department of Aeronautics .....	445
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(2) Transfer from Commission on Aging .....	1,415
(3) Transfer from Board of Public Accountancy .....	81
(4) Transfer from Department of Agriculture and Industries .....	34,004
(5) Transfer from Agricultural Center Board .....	606
(6) Transfer from Department of Air Transportation and Service .....	1,294
(7) Transfer from Alcoholic Beverage Control .....	77,267
(8) Transfer from Board of Registration for Architects .....	122
(9) Transfer from Archives and History .....	3,194
(10) Transfer from the Council on Arts and Humanities .....	606
(11) Transfer from the Office of the Attorney General .....	11,240
(12) Transfer from the State Auditor .....	1,981
(13) Transfer from State Banking Department .....	3,962
(14) Transfer from Finance-Alabama Building Authority .....	2,911
(15) Transfer from Finance-Alabama Building Finance Authority .....	242
(16) Transfer from Building Commission .....	1,698
(17) Transfer from Child Abuse and Neglect Prevention Board.	40
(18) Transfer from Chiropractic Examiners .....	81
(19) Transfer from Civil Air Patrol .....	81
(20) Transfer from Department of Conservation and Natural Resources .....	85,475



(21) Transfer from State Licens- ing Board for General Contractors .....	445
(22) Transfer from Department of Corrections .....	185,546
(23) Transfer form Board of Cosmetology .....	809
(24) Transfer from Criminal Jus- tice Information Center .....	3,477
(25) Transfer from Alabama De- velopment Office .....	2,426
(26) Transfer from State Docks ..	40,109
(27) Transfer from Department of Education .....	101,850
(28) Transfer from the Depart- ment of Economic and Com- munity Affairs .....	26,686
(29) Transfer from Emergency Management Agency .....	3,113
(30) Transfer from Local Emer- gency Management .....	920
(31) Transfer from Board of Reg- istration for Professional Engi- neers and Land Surveyors .....	283
(32) Transfer from Department of Environmental Management ....	18,559
(33) Transfer from Ethics Commission .....	526
(34) Transfer from Examiners of Public Accounts .....	12,372
(35) Transfer from Farmer's Mar- ket Authority .....	202
(36) Transfer from Finance Department .....	40,514
(37) Transfer from Firefighters Personnel Standards and Edu- cation Commission .....	202
(38) Transfer from Foreign Trade Commission .....	121
(39) Transfer from Department of Forensic Sciences .....	7,642

(40) Transfer from Forestry Commission .....	33,236
(41) Transfer from Funeral Services .....	121
(42) Transfer from Geological Survey .....	5,378
(43) Transfer from Governor's Office .....	2,264
(44) Transfer from Department of Public Health .....	146,731
(45) Transfer from State Health Planning Agency .....	1,981
(46) Transfer from Board of Heat- ing and Air Conditioning Contractors .....	162
(47) Transfer from Highway Department .....	321,481
(48) Transfer from Alabama His- torical Commission .....	3,315
(49) Transfer from Department of Industrial Relations .....	152,917
(50) Transfer from Insurance Department .....	4,690
(51) Transfer from State Employ- ees' Insurance Board. ....	81
(52) Transfer from Judicial In- quiry Commission .....	40
(53) Transfer from Department of Labor .....	728
(54) Transfer from Legislative Reference Service .....	566
(55) Transfer from Liquefied Pe- troleum Gas Board .....	526
(56) Transfer from Alabama- Medicaid Agency .....	20,176
(57) Transfer From Department of Mental Health and Mental Retardation .....	386,538
(58) Transfer from Military Department .....	13,060

(59) Transfer from Board of Nursing .....	1,092
(60) Transfer from Board of Ex- aminers of Nursing Home Administrators .....	40
(61) Transfer from Oil and Gas Board .....	3,882
(62) Transfer from Pardons and Paroles Board .....	19,691
(63) Transfer from Peace Officers' Annuity and Benefit Fund .....	283
(64) Transfer from Peace Officers' Standards and Training Commission .....	445
(65) Transfer from Department of Pensions and Security .....	345,337
(66) Transfer from Physical Fit- ness Commission .....	485
(67) Transfer from Board of Physical Therapy .....	81
(68) Transfer from Public Library Service .....	5,135
(69) Transfer from Department of Public Safety .....	90,044
(70) Transfer from Public Service Commission .....	9,744
(71) Transfer from Alabama Ed- ucational Television Commission .....	6,388
(72) Transfer from Real Estate Commission .....	1,698
(73) Transfer from Retirement Systems .....	9,744
(74) Transfer from Department of Revenue .....	89,882
(75) Transfer from Secretary of State .....	1,981
(76) Transfer from Securities Commission .....	1,456
(77) Transfer from Board of So- cial Work Examiners .....	81

(78) Transfer from Soil and Water Conservation Committee .....	364	
(79) Transfer from Surface Mining Commission .....	4,973	
(80) Transfer from Bureau of Tourism and Travel .....	4,812	
(81) Transfer from State Treasurer .....	3,599	
(82) Transfer from Department of Veterans' Affairs .....	4,448	
(83) Transfer from Department of Youth Services .....	<u>27,777</u>	
Total State Personnel Department .....	<u>2,400,000</u>	<u>2,400,000</u>

#### 83. PHYSICAL THERAPY, BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....	57,916
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The appropriation to the Board of Physical Therapy shall include a transfer to the State Personnel Department of \$81.

#### SOURCE OF FUNDS:

(1) Physical Therapy Fund .....	57,916
As provided in Section 34-24-195, Code of Alabama 1975.	
Total Board of Physical Therapy	<u>57,916</u> <u>57,916</u>

#### 84. POLYGRAPH EXAMINERS, BOARD OF:

(a) Professional and Occupational Licensing and Regulation Program .....	33,000
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#### SOURCE OF FUNDS:

(1) Board of Polygraph Examiners Fund .....	33,000
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As provided in Section 34-25-5, Code of Alabama 1975, as amended.

Total Board of Polygraph Examiners .....	<u>33,000</u>	<u>33,000</u>
85. PROSECUTION SERVICES, OFFICE OF:		
(a) Prosecution, Training, Education and Management Program .....		472,436
SOURCE OF FUNDS:		
(1) Office of Prosecution Services Fund .....	<u>472,436</u>	
Total Office of Prosecution Services .....	<u>472,436</u>	<u>472,436</u>
86. PSYCHOLOGY, ALABAMA BOARD OF EXAMINERS IN:		
(a) Professional and Occupational Licensing and Regulation Program .....		36,300
SOURCE OF FUNDS:		
(1) Board of Examiners of Psychology Fund .....		36,300
As provided in Section 34-26-43, Code of Alabama 1975, as amended.		
Total Alabama Board of Examiners in Psychology .....	<u>36,300</u>	<u>36,300</u>
87. PUBLIC SAFETY, DEPARTMENT OF:		
(a) Traffic Control and Accident Prevention Program .....		21,585,220
(b) Criminal Investigation Program .....		4,526,700
(c) Driver's Licensing and Improvement Program .....		9,099,100
(d) Public Safety Support Services Program .....		6,571,500
(e) Administrative Services Program .....		2,611,400
(f) Alabama Criminal Justice Training Center Program .....		1,456,080

The appropriation to the Department of Public Safety shall include a transfer to the State Personnel Department of \$90,044.

SOURCE OF FUNDS:

(1) State General Fund .....	<u>45,850,000</u>	
Total Department of Public Safety .....	<u>45,850,000</u>	<u>45,850,000</u>

88. PUBLIC SERVICE COMMISSION:

(a) Regulatory Services Program	4,722,323
(b) Administrative Services Program .....	1,628,961

The appropriation to the Public Service Commission shall include a transfer to the State Personnel Department of \$9,744.

SOURCE OF FUNDS:

(1) Public Service Commission Fund .....	5,572,630
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The above appropriation to the Alabama Public Service Commission shall be payable only from inspection and supervision fees paid by utilities and transportation companies and such parts or percentage of fees and taxes paid by motor carrier or motor transportation companies as are now or may be set aside by law to be used by the Commission. Any surplus remaining in the Alabama Public Service Commission Fund at the end of the fiscal year in excess of \$800,000 shall be transferred to the State General Fund.

(2) Gas Pipeline Safety Fund .....	435,083
(3) Federal and Miscellaneous Funds .....	<u>343,571</u>

Total Public Service Commission	<u>6,351,284</u>	<u>6,351,284</u>
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89. REAL ESTATE COMMISSION, ALABAMA:

(a) Professional and Occupational Licensing and Regulation Program .....		915,000
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The appropriation to the Alabama Real Estate Commission shall include a transfer to the State Personnel Department of \$1,698.

SOURCE OF FUNDS:

(1) Alabama Real Estate Commission Fund .....	915,000
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As provided in Section 34-27-4, Code of Alabama 1975, as amended and the total expenditures shall in no manner exceed the amounts hereby appropriated.

Total Alabama Real Estate Commission .....	<u>915,000</u>	<u>915,000</u>
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90. REVENUE DEPARTMENT:

(a) State Revenue Administration Program .....		44,692,012
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The appropriation to the Revenue Department shall include a transfer to the State Personnel Department of \$89,882.

SOURCE OF FUNDS:

(1) State General Fund-Transfer	250,000
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As provided in Section 40-7-70, Code of Alabama 1975, to maintain a program for the equalization of ad valorem tax assessments.

(2) State General Fund-Transfer-Boards of Equalization .....	137,164
--	---------

(3) Transfer from the gross proceeds of Cigarette Tax Collections .....	1,295,405
--	-----------

As provided in Section 40-25-2 and  
Section 40-25-23, Code of Ala-  
bama 1975, as amended.

(4) Transfer from the gross pro- ceeds of Financial Institution Excise Tax Collections .....	219,104
(5) Transfer from the gross pro- ceeds of the Forest Severance Tax Collections .....	130,694
(6) Transfer from the gross pro- ceeds of Gasoline Tax Collections .....	3,836,244
(7) Transfer from the Income Tax Collections .....	13,019,399
(8) Transfer from the gross pro- ceeds of Motor Fuel Tax Collections .....	799,538
(9) Transfer from the gross pro- ceeds of Motor Vehicle License Collections .....	1,733,613
(10) Transfer from the Pension Fund as part of the cost of col- lections of the 1-Mill Ad Valo- rem Tax .....	530,463
(11) Transfer from the Public School Fund as part of the cost of collections of the 3-Mill Ad Valorem Tax .....	1,306,937
(12) Transfer from the gross pro- ceeds of Sales Tax Collections ..	11,485,670
(13) Transfer from the gross pro- ceeds of the Tobacco Tax Collections .....	34,595
(14) Transfer from the gross pro- ceeds of Use Tax Collections ....	1,256,966
(15) Transfer from the gross pro- ceeds of the Utility Tax Collections .....	2,790,695
As provided in Section 40-21-1, Code of Alabama 1975.	
(16) Local Funds .....	3,500,442



- (17) Transfer from the gross proceeds of Motor Vehicle License Collections for the purchase only of Motor Vehicle License Tags

2,365,083

The amounts hereinabove appropriated for the cost of maintenance and operations of the Department of Revenue are in lieu of any other statutory provisions for the payment of the cost of operating said Department or collections of the taxes as authorized by law.

Provided, however, in addition to the amount hereinabove appropriated, there is hereby appropriated to the Department of Revenue all sums allowed the Department of Revenue by local Acts of the Legislature as a charge for the collection of taxes or licenses.

Total Revenue Department .....	<u>387,164</u>	<u>44,304,848</u>	<u>44,692,012</u>
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#### 91. SECRETARY OF STATE:

- (a) Administrative Support Services Program .....

816,500

The appropriation to the Secretary of State shall include a transfer to the State Personnel Department of \$1,981.

#### SOURCE OF FUNDS:

- |                              |                |  |
|------------------------------|----------------|--|
| (1) State General Fund ..... | <u>816,500</u> |  |
|------------------------------|----------------|--|

Total Secretary of State .....	<u>816,500</u>	<u>816,500</u>
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#### 92. SECURITIES COMMISSION:

- (a) Regulatory Services Program

918,833

The appropriation to the Securities Commission shall include a transfer to the State Personnel Department of \$1,456.

#### SOURCE OF FUNDS:

- |                              |         |
|------------------------------|---------|
| (1) State General Fund ..... | 509,368 |
|------------------------------|---------|

(2) Industrial Development Bond Notification Fund .....		126,465	
(3) Sales of Checks License Fund .....		8,000	
(4) Exemption Fund .....		<u>275,000</u>	
Total Securities Commission .....	<u>509,368</u>	<u>409,465</u>	<u>918,833</u>
93. SENIOR CITIZENS HALL OF FAME, ALABAMA:			
(a) Historical Resources Management Program .....			25,000
To be expended in accordance with Section 41-9-740 through 745, Code of Alabama 1975, as amended.			
SOURCE OF FUNDS:			
(1) STATE GENERAL FUND ..	<u>25,000</u>		
Total Alabama Senior Citizens Hall of Fame .....	<u>25,000</u>		<u>25,000</u>
94. SOCIAL WORK EXAMINERS, ALABAMA STATE BOARD OF:			
(a) Professional and Occupational Licensing and Regulation Program .....			53,784
The appropriation to the Alabama State Board of Social Work Examiners shall include a transfer to the State Personnel Department of \$81.			
SOURCE OF FUNDS:			
(1) Alabama State Board of Social Work Examiners Fund .....		53,784	
As provided in Section 34-30-6, Code of Alabama 1975 (1983 Cum. Supp.)			
Total Alabama State Board of Social Work Examiners .....		<u>53,784</u>	<u>53,784</u>
95. SOIL AND WATER CONSERVATION COMMITTEE, STATE:			
(a) Water Resource Development Program .....			1,292,200

(b) Professional and Occupational Licensing and Regulation Program .....	2,000
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The appropriation to the State Soil and Water Conservation Committee shall include a transfer to the State Personnel Department of \$364.

#### SOURCE OF FUNDS:

(1) State General Fund .....	1,278,200	
(2) Soil Classifiers Fund .....		2,000

As provided by Section 34-32-19,  
Code of Alabama 1975, as  
amended.

(3) Federal, Local and Miscella- neous Funds .....	<u>14,000</u>	
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Total State Soil and Water Con- servation Committee .....	<u>1,278,200</u>	<u>16,000</u>	<u>1,294,200</u>
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#### 96. SOUTHERN GROWTH POLICIES BOARD:

(a) Special Services Program .....	27,830
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#### SOURCE OF FUNDS:

(1) State General Fund .....	<u>27,830</u>
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Total Southern Growth Policies Board .....	<u>27,830</u>	<u>27,830</u>
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#### 97. SPACE SCIENCE EXHIBIT COMMISSION, ALABAMA:

(a) Tourism and Travel Promo- tion Program .....	350,000
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#### SOURCE OF FUNDS:

(1) State General Fund-Capital Outlay .....	<u>350,000</u>
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Total Alabama Space Science Ex- hibit Commission .....	<u>350,000</u>	<u>350,000</u>
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#### 98. SPEECH PATHOLOGY AND AUDIOLOGY, ALA- BAMA BOARD OF EXAM- INERS FOR:

(a) Professional and Occupational Licensing and Regulation Program .....	21,033
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## SOURCE OF FUNDS:

- (1) Alabama Board of Examiners  
for Speech Pathology and Au-  
diology Fund .....

21,033

As Provided in Section 34-28A-44,  
Code of Alabama 1975.

Total Alabama Board of Exam-  
iners for Speech Pathology and  
Audiology .....

21,03321,03399. SPORTS HALL OF FAME,  
ALABAMA:

- (a) Historical Resources Manage-  
ment Program .....

70,000

## SOURCE OF FUNDS:

- (1) State General Fund ..... 70,000

Total Alabama Sports Hall of

Fame ..... 70,000

70,000100. SURFACE MINING COM-  
MISSION, ALABAMA:

- (a) Industrial Safety and Accident  
Prevention Program .....

4,782,837

The appropriation to the Alabama  
Surface Mining Commission  
shall include a transfer to the  
State Personnel Department of  
\$4,973.

## SOURCE OF FUNDS:

- (1) State General Fund ..... 500,000

- (2) Surface Mining Commission  
Fund .....

4,282,837

As provided by Section 9-16-103,  
Code of Alabama 1975 (1983  
Cum. Supp.). All fees and  
charges, grants, gifts, fines, bond  
forfeitures or other monies re-  
ceived under the above act, in  
addition to the appropriation  
herein made, are appropriated to  
the Surface Mining Commis-  
sion.

Total Alabama Surface Mining Commission .....	<u>500,000</u>	<u>4,282,837</u>	<u>4,782,837</u>
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101. TANNEHILL FURNACE  
AND FOUNDRY COMMISSION:

(a) Historical Resources Management Program .....			668,000
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(b) Walter B. Jones Center for Industrial Archaeology .....			4,800
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SOURCE OF FUNDS:

(1) State General Fund .....	232,800		
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(2) State General Fund-Capital Outlay for furnace repair .....	50,000		
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(3) Federal, Local and Miscellaneous Funds .....		<u>390,000</u>	
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Total Tannehill Furnace and Foundry Commission .....	<u>282,800</u>	<u>390,000</u>	<u>672,800</u>
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102. TENNESSEE-TOMBIGBEE WATERWAY DEVELOPMENT AUTHORITY:

(a) Water Resource Development Program .....			180,524
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SOURCE OF FUNDS:

(1) Federal, Local and Miscellaneous Funds .....		<u>180,524</u>	
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Total Tennessee-Tombigbee Waterway Development Authority .....		<u>180,524</u>	<u>180,524</u>
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103. TENNESSEE VALLEY  
AUTHORITY EXHIBIT  
COMMISSION OF ALABAMA:

(a) Promotional Development Program .....			125,000
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To be expended in accordance with  
Act Number 84-292.

SOURCE OF FUNDS:

(1) State General Fund .....	75,000		
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(2) Federal, Local and Miscellaneous Funds .....

50,000

Total Tennessee Valley Authority  
Exhibit Commission of  
Alabama .....

75,000

50,000

125,000

In addition to the above appropriation to the Tennessee Valley Authority Exhibit Commission, there is hereby appropriated \$250,000 to be conditioned on the Tennessee Valley Authority executing a letter of assurance to issue a permanent easement of sufficient property to house a museum and adequate parking to the Tennessee Valley Authority Exhibit Commission.

#### 104. TOURISM AND TRAVEL, BUREAU OF:

(a) Tourism and Travel Promotion Program .....

2,958,048

(b) Special Program for the Promotion of Professional Sports Activities .....

200,000

The appropriation to the Bureau of Tourism and Travel shall include a transfer to the State Personnel Department of \$4,812.

#### SOURCE OF FUNDS:

(1) State General Fund-Transfer

867,300

(2) Lodgings Tax (\$.01) .....

2,290,748

Receipts collected under the Provisions of Section 40-26-1 et seq., Code of Alabama 1975, as amended.

Total Bureau of Tourism and  
Travel .....

867,300

2,290,748

3,158,048

#### 105. TREASURER, STATE:

(a) Fiscal Management Program

1,516,600

The appropriation to the State Treasurer shall include a transfer to the State Personnel Department of \$3,559.

SOURCE OF FUNDS:

(1) State General Fund .....	<u>1,516,600</u>	
Total State Treasurer .....	<u>1,516,600</u>	<u>1,516,600</u>

106. UNIFORM STATE LAWS,  
COMMISSION ON:

(a) Special Services Program, Estimated .....		5,000
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SOURCE OF FUNDS:

(1) State General Fund .....	5,000	
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As Provided in Section 41-9-374,  
Code of Alabama 1975.

Total Commission on Uniform State Laws, Estimated .....	<u>5,000</u>	<u>5,000</u>
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107. VETERANS' AFFAIRS,  
DEPARTMENT OF:

(a) Administration of Veterans' Affairs Program .....		2,856,700
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(b) Alabama Vietnam Veterans' Leadership Program .....		25,000
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The expenditures of said appropriation to the Alabama Vietnam Veterans' Leadership Program shall be subject to the rules and regulations promulgated by the State Department of Veterans' Affairs.

The appropriation to the Department of Veterans' Affairs shall include a transfer to the State Personnel Department of \$4,448.

SOURCE OF FUNDS:

(1) State General Fund .....	<u>2,881,700</u>	
Total Department of Veterans' Affairs .....	<u>2,881,700</u>	<u>2,881,700</u>

In addition to the above appropriation to the Department of Veterans' Affairs, there is hereby

conditionally appropriated \$2,000,000 for capital outlay for construction of a State Veterans' Home to be conditional upon the receipt of 65% matching Federal Funds from the Veterans' Administration for such purpose. These funds are also conditional upon the availability of funds and shall remain in the State General Fund until a demonstrated need is determined and recommended by the Finance Director and approved by the Governor.

108. VETERINARY MEDICAL EXAMINERS, ALABAMA STATE BOARD OF:

- |  |  |        |
|--|--|--------|
| (a) Professional and Occupational Licensing and Regulation Program ..... |  | 60,000 |
|--|--|--------|

SOURCE OF FUNDS

- |  |        |  |
|--|--------|--|
| (1) State Board of Veterinary Medical Examiners Fund ..... | 60,000 |  |
|--|--------|--|

As provided in Section 34-29-23 and Section 34-29-41, Code of Alabama 1975, as amended.

Total Alabama State Board of Veterinary Medical Examiners .....	<u>60,000</u>	<u>60,000</u>
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109. WOMEN'S COMMISSION, ALABAMA:

- |   |  |        |
|---|--|--------|
| (a) Employment and Social Opportunities Program ..... |  | 12,000 |
|---|--|--------|

SOURCE OF FUNDS:

- |                              |               |  |
|------------------------------|---------------|--|
| (1) State General Fund ..... | <u>12,000</u> |  |
|------------------------------|---------------|--|

Total Alabama Women's Commission .....	<u>12,000</u>	<u>12,000</u>
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110. WOMEN'S HALL OF FAME, ALABAMA:

- |   |  |       |
|---|--|-------|
| (a) Historical Resources Management Program ..... |  | 6,000 |
|---|--|-------|

SOURCE OF FUNDS:



(1) State General Fund .....	<u>6,000</u>	
Total Alabama Women's Hall of Fame .....	<u>6,000</u>	<u>6,000</u>
D. OTHER FUNCTIONS OF GOVERNMENT FUNDED FROM THE STATE GENERAL FUND:		
1. ADVERTISING LANDS FOR TAX SALE:		
(a) State Revenue Administration Program, Estimated .....		60,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>60,000</u>	
Total Advertising Lands for Tax Sale .....	<u>60,000</u>	<u>60,000</u>
2. ARREST OF ABSCONDING FELONS:		
(a) Criminal Investigation Program, Estimated .....		65,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>65,000</u>	
Total Arrest of Absconding Felons .....	<u>65,000</u>	<u>65,000</u>
3. ATTORNEYS' FEES FOR REAPPORTIONMENT CASES:		
(a) Legal Advice and Legal Service Program, Estimated .....		100,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>100,000</u>	
Total Attorneys' Fees for Reapportionment Cases .....	<u>100,000</u>	<u>100,000</u>
4. AUTOMATIC APPEAL EXPENSE:		
(a) Legal Advice and Legal Service Program, Estimated .....		100
SOURCE OF FUNDS:		
(1) State General Fund .....	100	

As provided in Section 12-22-150  
and Section 12-22-241, Code of  
Alabama 1975.

Total Automatic Appeal Expense	100	100
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5. CIVIL COURT COSTS IN  
CONNECTION WITH AD  
VALOREM TAX ASSESS-  
MENTS APPEALS:

(a) State Revenue Administration Program, Estimated .....	200
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SOURCE OF FUNDS:

(1) State General Fund .....	200
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Total Civil Court Costs in Con- nection with Ad Valorem Tax As- sessment Appeals .....	200	200
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6. CONSUMER UTILITY  
RATE HEARING:

(a) Executive Direction Program	250,000
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SOURCE OF FUNDS:

(1) State General Fund- Transfer .....	250,000
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As provided in Section 37-1-18  
Code of Alabama 1975 (1983  
Cum. Supp.).

Total Consumer Utility Rate Hearing .....	250,000	250,000
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7. COURT-ASSESSED COST  
NOT OTHERWISE PRO-  
VIDED FOR:

(a) Legal Advice and Legal Serv- ices Program, Estimated .....	800,000
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It is the intent of the Legislature  
that this appropriation be ex-  
pended only for costs assessed  
by state and federal courts.

SOURCE OF FUNDS:

(1) State General Fund .....	800,000
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Total Court-Assessed Cost Not Otherwise Provided For .....	<u>800,000</u>	<u>800,000</u>
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8. COURT COSTS-ACT NO. 558,  
1957:

(a) Court Operations Program, Estimated .....		500
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SOURCE OF FUNDS:

(1) State General Fund .....	500	
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Pursuant to Act No. 558, 1957, page  
777.

Total Court Costs-Act No. 558, 1957 .....	<u>500</u>	<u>500</u>
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9. DISTRIBUTION OF PUBLIC  
DOCUMENTS:

(a) Administrative Support Serv- ice Program, Estimated .....		55,000
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SOURCE OF FUNDS:

(1) State General Fund .....	<u>55,000</u>	
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Total Distribution of Public Documents .....	<u>55,000</u>	<u>55,000</u>
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10. STATE DOCKS TRANSFER .....		3,500,000
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SOURCE OF FUNDS

(1) State General Fund Transfer- .....	<u>3,500,000</u>	
--	------------------	--

Total State Docks Transfer .....	<u>3,500,000</u>	<u>3,500,000</u>
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The above appropriation to the  
State Docks shall be conditional  
upon the availability of funds and  
shall remain in the State Gen-  
eral Fund until a demonstrated  
need is determined and recom-  
mended by the Finance Director  
and approved by the Governor.

11. ELECTION EXPENSES:

(a) Special Services Program, Estimated .....		1,000,000
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SOURCE OF FUNDS:

(1) State General Fund .....	<u>1,000,000</u>	
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Total Election Expenses .....	1,000,000	<u>1,000,000</u>
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12. EMERGENCY FUND, DEPARTMENTAL:

(a) Special Services Program .....		1,750,000
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SOURCE OF FUNDS:

(1) State General Fund .....	1,750,000	
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(This is the appropriation contemplated in Section 41-4-94, Code of Alabama 1975, and shall be the only amount appropriated and the total amount expended under the provisions of said section.)

Total Departmental Emergency Fund .....	<u>1,750,000</u>	<u>1,750,000</u>
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13. FEEDING OF PRISONERS:

(a) Institutional Services-Corrections Program, Estimated .....		3,750,000
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SOURCE OF FUNDS:

(1) State General Fund .....	3,750,000	
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For expenses of feeding prisoners in county jails

Total Feeding of Prisoners .....	<u>3,750,000</u>	<u>3,750,000</u>
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14. DEPARTMENT OF FINANCE-CAPITAL OUTLAY:

(a) Special Services Program, Estimated .....		2,800,000
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For capital outlay, renovation, and Capitol moving.

(b) Administrative Support Services Program .....		150,000
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For repair of the Governor's Mansion, the Haardt House, the Little White House of the Confederacy, and for greenhouse construction.

SOURCE OF FUNDS:

(1) State General Fund-Capital Outlay, Estimated .....	2,800,000	
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(2) State General Fund-Capital Outlay .....	<u>150,000</u>	
Total Department of Finance-Capital Outlay .....	<u>2,950,000</u>	<u>2,950,000</u>
15. DEPARTMENT OF FINANCE-EMPLOYEES' SUGGESTION AWARDS PROGRAM:		
(a) Fiscal Management Program .....		10,000
In accordance with Section 36-1-7, Code of Alabama 1975, as amended.		
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>10,000</u>	
Total Department of Finance-Employees' Suggestion Awards Program .....	<u>10,000</u>	<u>10,000</u>
16. DEPARTMENT OF FINANCE-FEMA:		
(a) Readiness and Recovery Program .....		1,000,000
Payments of the State's share of Administration costs and matching grants furnished by the Federal Emergency Management Agency.		
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,000,000</u>	
Total Department of Finance-FEMA .....	<u>1,000,000</u>	<u>1,000,000</u>
17. DEPARTMENT OF FINANCE-TELEPHONE REVOLVING FUND .....		2,400,000
SOURCE OF FUNDS:		
(1) State General Fund-Transfer .....	<u>2,400,000</u>	
Total Department of Finance		

Telephone Revolving Fund .....	<u>2,400,000</u>	<u>2,400,000</u>
18. FOREST FIRE FUND, EMERGENCY:		
(a) Forest Resource Protection Program .....		180,000
SOURCE OF FUNDS:		
(1) State General Fund-Transfer	180,000	
As provided by Section 9-3-10.1, Code of Alabama 1975.		
Total Emergency Forest Fire Fund .....	<u>180,000</u>	<u>180,000</u>
19. GOVERNORS' CONFER- ENCE, NATIONAL:		
(a) Executive Direction Program		80,395
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>80,395</u>	
Total National Governors' Conference .....	<u>80,395</u>	<u>80,395</u>
20. GOVERNOR'S COUNCIL- LOR:		
(a) Executive Direction Program		23,000
SOURCE OF FUNDS:		
(1) State General Fund .....	23,000	
As provided in Section 36-13-13, Code of Alabama 1975 (1983 Cum. Supp.).		
Total Governor's Councillor .....	<u>23,000</u>	<u>23,000</u>
21. GOVERNOR'S PROCLA- MATION EXPENSES:		
(a) Executive Direction Program, Estimated .....		150,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>150,000</u>	
Total Governor's Proclamation Expenses .....	<u>150,000</u>	<u>150,000</u>
22. GOVERNOR'S WIDOWS RETIREMENT:		
(a) Executive Direction Program		14,400

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>14,400</u>	
Total Governor's Widows Retirement .....	<u>14,400</u>	<u>14,400</u>

## 23. INTERPRETER'S ACCOUNT:

(a) Court Operations Program .....		2,500
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## SOURCE OF FUNDS:

(1) State General Fund .....	2,500	
As provided in Sections 12-21-131 through 134, Code of Alabama 1975.		
Total Interpreter's Account .....	<u>2,500</u>	<u>2,500</u>

## 24. LAW ENFORCEMENT FUND:

(a) Criminal Investigation Program .....		1,000
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## SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	<u>1,000</u>	
Total Law Enforcement Fund .....	<u>1,000</u>	<u>1,000</u>

## 25. LAW ENFORCEMENT LEGAL DEFENSE:

(a) Legal Advice and Legal Services Program .....		3,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	3,000	
To carry out provisions of Section 36-21-1, Code of Alabama 1975.		
Total Law Enforcement Legal Defense .....	<u>3,000</u>	<u>3,000</u>

## 26. LIABILITY INSURANCE FUND, STATE .....

1,000,000

## SOURCE OF FUNDS:

(1) State General Fund-Transfer .....	<u>1,000,000</u>	
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Total State Liability Insurance Fund .....	<u>1,000,000</u>	<u>1,000,000</u>
27. MAILING TAX NOTICES:		
(a) State Revenue Administration Program, Estimated .....		100
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>100</u>	
Total Mailing Tax Notices .....	<u>100</u>	<u>100</u>
28. MENTAL HEALTH TRUST FUND, ALABAMA SPECIAL: .....		42,825,000
SOURCE OF FUNDS:		
(1) State General Fund-Transfer .....	<u>48,825,000</u>	
Total Alabama Special Mental Health Trust Fund .....	<u>42,825,000</u>	<u>42,825,000</u>
29. POLICEMAN'S SURVIVOR TUITION ACT:		
(a) Support of Other Educational Activities Program, Estimated .....		5,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>5,000</u>	
Total Policeman's Survivor Tuition Act .....	<u>5,000</u>	<u>5,000</u>
30. PRINTING OF CODE SUPPLEMENT-LEGISLATIVE REFERENCE SERVICE:		
(a) Legislative Operation and Support Program, Estimated ....		500,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>500,000</u>	
Total Printing of Code Supplement-Legislative Reference Service .....	<u>500,000</u>	<u>500,000</u>
31. PRINTING CODES AND SUPPLEMENTS-SECRETARY OF STATE:		
(a) Administrative Support Services Program, Estimated .....		150,000



## SOURCE OF FUNDS:

(1) State General Fund .....	<u>150,000</u>	
Total Printing Codes and Supplements-Secretary of State .....	<u>150,000</u>	<u>150,000</u>

## 32. PRINTING OF LEGISLATIVE ACTS AND JOURNALS:

(a) Administrative Support Services Program, Estimated .....		400,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>400,000</u>	
Total Printing of Legislative Acts and Journals .....	<u>400,000</u>	<u>400,000</u>

## 33. PRINTING OF STATE AND COUNTY PRIVILEGE LICENSES:

(a) State Revenue Administration Program, Estimated .....		25,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	25,000	
Total Printing of State and County Privilege Licenses .....	<u>25,000</u>	<u>25,000</u>

## 34. PUBLIC DEFENDER:

(a) Court Operations Program, Estimated .....		60,185
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## SOURCE OF FUNDS:

(1) State General Fund .....	60,185	
For salary of Public Defender for the 21st Judicial Circuit, as provided by Section 15-12-43, Code of Alabama 1975.		
Total Public Defender .....	<u>60,185</u>	<u>60,185</u>

## 35. RECREATION CAPITAL DEVELOPMENT FUND:

(a) Special Services Program .....		785,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	785,000	
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Total Recreation Capital Development Fund .....	<u>785,000</u>	<u>785,000</u>
36. REGISTRATION OF VOTERS:		
(a) Special Services Program, Estimated .....		1,500,000
In accordance with Sections 17-4-126 and 17-4-153, Code of Alabama 1975, as amended.		
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,500,000</u>	
Total Registration of Voters .....	<u>1,500,000</u>	<u>1,500,000</u>
37. REMOVAL OF PRISONERS:		
(a) Administrative Services and Logistical Support Program, Estimated .....		300,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>300,000</u>	
Total Removal of Prisoners .....	<u>300,000</u>	<u>300,000</u>
38. SOCIAL SECURITY-COUNTY JUDICIAL:		
(a) Fringe Benefit Program, Estimated .....		300,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>300,000</u>	
Total Social Security-County Judicial .....	<u>300,000</u>	<u>300,000</u>
39. STATE GENERAL FUND, ESTIMATED .....		66,655,765
SOURCE OF FUNDS:		
(1) Heritage Trust Income Fund Transfer, Estimated.		
All income other than income realized on sale of Trust Fund assets and not otherwise appropriated herein .....	<u>66,655,765</u>	

Total State General Fund, Estimated .....	66,655,765	66,655,765
40. STATE TREASURER-PRE- VIOUS YEAR'S UNPAID WARRANTS:		
(a) Special Services Program, Estimated .....		200,000
SOURCE OF FUNDS:		
(1) State General Fund .....	200,000	
Total State Treasurer-Previous Year's Unpaid Warrants .....	200,000	200,000
E. FINANCIAL ASSISTANCE TO NON-STATE AGENCIES:		
1. ANNISTON SUBRE- GIONAL LIBRARY FOR THE BLIND AND HANDI- CAPPED:		
(a) Public Library Services Program .....		4,500
SOURCE OF FUNDS:		
(1) State General Fund .....	4,500	
Total Anniston Subregional Li- brary for the Blind and Handicapped .....	4,500	4,500
2. APPALACHIAN REGIONAL COMMISSION:		
(a) Planning Program .....		189,970
SOURCE OF FUNDS:		
State General Fund .....	189,970	
Total Appalachian Regional Com- mission .....	189,970	189,970
3. ARMED FORCES DAY IN ALABAMA:		
(a) Historical Resources Manage- ment Program .....		836
SOURCE OF FUNDS:		
(1) State General Fund .....	836	

Total Armed Forces Day in Alabama .....	<u>836</u>	<u>836</u>
4. ARMY AVIATION MU- SEUM, FORT RUCKER:		
(a) Historical Resources Manage- ment Program .....		75,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>75,000</u>	
Total Army Aviation Museum, Fort Rucker .....	<u>75,000</u>	<u>75,000</u>
5. ARTS HALL OF FAME, ALABAMA:		
(a) Fine Arts Program .....		4,500
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>4,500</u>	
Total Alabama Arts Hall of Fame .....	<u>4,500</u>	<u>4,500</u>
6. AZALEA TRAIL FESTIVAL, MOBILE:		
(a) Tourism and Travel Promo- tion Program .....		1,556
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,556</u>	
Total Mobile Azalea Trail Festival .....	<u>1,556</u>	<u>1,556</u>
7. BALDWIN HERITAGE MU- SEUM:		
(a) Historical Resources Manage- ment Program .....		15,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>15,000</u>	
Total Baldwin Heritage Museum	<u>15,000</u>	<u>15,000</u>
8. BAYOU LA BATRE SEA- FOOD FESTIVAL:		
(a) Tourism and Travel Promo- tion Program .....		1,000

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>1,000</u>	
Total Bayou La Batre Seafood Festival .....	<u>1,000</u>	<u>1,000</u>

## 9. BEACON HOUSE-JASPER:

(a) Social Services Program .....		50,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>50,000</u>	
Total Beacon House-Jasper .....	<u>50,000</u>	<u>50,000</u>

10. BIG NANCE CREEK  
WATER MANAGEMENT  
DISTRICT:

(a) Water Resource Development Program .....		1,400
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>1,400</u>	
Total Big Nance Creek Water Management District .....	<u>1,400</u>	<u>1,400</u>

11. BIRMINGHAM CHAMBER  
MUSIC SOCIETY:

(a) Fine Arts Program .....		1,556
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>1,556</u>	
Total Birmingham Chamber Music Society .....	<u>1,556</u>	<u>1,556</u>

12. BIRMINGHAM FESTIVAL  
OF ARTS:

(a) Fine Arts Program .....		15,230
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>15,230</u>	
Total Birmingham Festival of Arts .....	<u>15,230</u>	<u>15,230</u>

13. BIRMINGHAM INTERNA-  
TIONAL EDUCATIONAL  
FILM FESTIVAL:

(a) Fine Arts Program .....		7,500
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>7,500</u>	
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Total Birmingham International Educational Film Festival .....	<u>7,500</u>	<u>7,500</u>
14. BLOUNT COUNTY-ONEONTA AGRI-BUSINESS ASSOCIATION-FARMERS' MARKET:		
(a) Agricultural Development Services Program .....		25,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>25,000</u>	
Total Blount County-Oneonta Agri-Business Association-Farmers' Market .....	<u>25,000</u>	<u>25,000</u>
15. BLUE AND GRAY ASSOCIATION:		
(a) Tourism and Travel Promotion Program .....		10,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>10,000</u>	
Total Blue and Gray Association .....	<u>10,000</u>	<u>10,000</u>
16. BREWTON BLUEBERRY FESTIVAL:		
(a) Tourism and Travel Promotion Program .....		10,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>10,000</u>	
Total Brewton Blueberry Festival .....	<u>10,000</u>	<u>10,000</u>
17. BRIERFIELD IRONWORKS PARK:		
(a) Outdoor Recreation Sites and Services Program .....		50,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>50,000</u>	
Total Brierfield Ironworks Park ...	<u>50,000</u>	<u>50,000</u>
18. CHILTON COUNTY HISTORICAL SOCIETY:		
(a) Historical Resources Management Program .....		5,000

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>5,000</u>	
Total Chilton County Historical Society .....	<u>5,000</u>	<u>5,000</u>

## 19. CHILTON COUNTY PEACH FESTIVAL:

(a) Tourism and Travel Promotion Program .....		11,250
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>11,250</u>	
Total Chilton County Peach Festival .....	<u>11,250</u>	<u>11,250</u>

## 20. CHOCOLOCOCO CREEK WATERSHED ASSOCIATION:

(a) Water Resource Development Program .....		2,183
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>2,183</u>	
Total Choccolocco Creek Watershed Association .....	<u>2,183</u>	<u>2,183</u>

## 21. CITRONELLE OIL BOWL:

(a) Tourism and Travel Promotion Program .....		500
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>500</u>	
Total Citronelle Oil Bowl .....	<u>500</u>	<u>500</u>

## 22. CIVIL AIR PATROL:

(a) Readiness and Recovery Program .....		80,000
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The appropriation to the Civil Air Patrol shall include a transfer to the State Personnel Department of \$81.

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>80,000</u>	
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Total Civil Air Patrol .....	<u>80,000</u>	<u>80,000</u>
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23. CLEVELAND AVENUE  
YMCA:

(a) Special Services Program .....		5,000
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SOURCE OF FUNDS:

(1) State General Fund .....	<u>5,000</u>	
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Total Cleveland Avenue YMCA ...	<u>5,000</u>	<u>5,000</u>
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24. CLAYBANK JAMBOREE:

(a) Special Services Program .....	<u>15,000</u>	
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SOURCE OF FUNDS:

(1) State General Fund .....	<u>15,000</u>	
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Total Claybank Jamboree .....	<u>15,000</u>	<u>15,000</u>
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25. CLIO CHITTLIN JAMBO-  
REE:

(a) Tourism and Travel Promo- tion Program .....		5,000
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SOURCE OF FUNDS:

(1) State General Fund .....	<u>5,000</u>	
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Total Clio Chittlin Jamboree .....	<u>5,000</u>	<u>5,000</u>
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26. COOSA-ALABAMA RIVER  
IMPROVEMENT ASSOCIA-  
TION:

(a) Water Resource Development Program .....		30,000
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SOURCE OF FUNDS:

(1) State General Fund .....	<u>30,000</u>	
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Total Coosa-Alabama River Im- provement Association .....	<u>30,000</u>	<u>30,000</u>
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27. COOSA RIVER ACTION  
COUNCIL-GADSDEN:

(a) Water Resource Development Program .....		6,221
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SOURCE OF FUNDS:

(1) State General Fund .....	<u>6,221</u>	
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Total Coosa River Action Council- Gadsden .....	<u>6,221</u>	<u>6,221</u>
28. CULTURE IN BLACK AND WHITE:		
(a) Historical Resources Manage- ment Program .....		1,500
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,500</u>	
Total Culture in Black and White .....	<u>1,500</u>	<u>1,500</u>
29. DEEP SEA FISHING RO- DEO, ALABAMA:		
(a) Tourism and Travel Promo- tion Program .....		935
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>935</u>	
Total Alabama Deep Sea Fishing Rodeo .....	<u>935</u>	<u>935</u>
30. ALABAMA DEVELOP- MENT AUTHORITY-SELMA PROJECT:		
(a) Community Services Program .....		200,000
It is the intent of the Legislature that this is a one-time appropri- ation to the Alabama Develop- ment Authority-Selma Project for fiscal year 1985-86.		
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>200,000</u>	
Total Alabama Development Au- thority-Selma Project .....	<u>200,000</u>	<u>200,000</u>
31. DORSE RECREATIONAL AND EDUCATIONAL CEN- TER, MARY E.:		
(a) Special Services Program .....		3,638
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>3,638</u>	

Total Mary E. Dorse Recreational and Educational Center .....	<u>3,638</u>	<u>3,638</u>
32. DOTHAN LANDMARKS FOUNDATION, INC.:		
(a) Historical Resources Manage- ment Program .....		30,625
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>30,625</u>	
Total Dothan Landmarks Foun- dation, Inc. ....	<u>30,625</u>	<u>30,625</u>
33. DYNNE CREEK WA- TERSHED CONSERVANCY DISTRICT:		
(a) Water Resource Development Program .....		1,400
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,400</u>	
Total Dynne Creek Watershed Conservancy District .....	<u>1,400</u>	<u>1,400</u>
34. ELYTON RECOVERY CENTER:		
(a) Community Services Program .....		75,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>75,000</u>	
Total Elyton Recovery Center .....	<u>75,000</u>	<u>75,000</u>
35. ENERGY BOARD, SOUTH- ERN STATES:		
(a) Discovery and Development of Mineral, Energy and Water Re- sources, Geologic Research and Topographic Mapping Program .....		20,536
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>20,536</u>	

Total Southern States Energy Board .....	<u>20,536</u>	<u>20,536</u>
36. EXPLORE CENTER, INC.:		
(a) Educational Museum Services Program .....		21,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>21,000</u>	
Total Explore Center, Inc. ....	<u>21,000</u>	<u>21,000</u>
37. FINANCE, DEPARTMENT OF-RETIRED SENIOR VOL-UNTEER PROGRAM:		
(a) Special Services Program .....		315,650
The above appropriation to the Retired Senior Volunteer Program shall be distributed in the following manner:		
\$34,664 to the Foster Grandparent and Senior Companions Programs and \$280,986 to the Retired Senior Volunteer Programs.		
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>315,650</u>	
Total Retired Senior Volunteer Program-Department of Finance .....	<u>315,650</u>	<u>315,650</u>
38. FOREST FESTIVAL, ALABAMA:		
(a) Executive Administration Program .....		4,610
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>4,610</u>	
Total Alabama Forest Festival .....	<u>4,610</u>	<u>4,610</u>
39. GENEVA COUNTY TOMATO FESTIVAL:		
(a) Tourism and travel Promotion Program .....		5,000
SOURCE OF FUNDS:		

(1) State General Fund .....	<u>5,000</u>	
Total Geneva County Tomato Festival .....	<u>5,000</u>	<u>5,000</u>
40. GEORGE LINDSEY CELEBRITY BENEFIT, INC.:		
(a) Tourism and Travel Promotion Program .....		7,500
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>7,500</u>	
Total George Lindsey Celebrity Benefit, Inc. ....	<u>7,500</u>	<u>7,500</u>
41. GULF SHORES TOURIST ASSOCIATION:		
(a) Tourism and Travel Promotion Program .....		9,500
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>9,500</u>	
Total Gulf Shores Tourist Association .....	<u>9,500</u>	<u>9,500</u>
42. GUNTERSVILLE BOAT RACES:		
(a) Tourism and Travel Promotion Program .....		11,068
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>11,068</u>	
Total Guntersville Boat Races .....	<u>11,068</u>	<u>11,068</u>
43. HANK WILLIAMS MEMORIAL ASSOCIATION-GEORGIANA:		
(a) Historical Resources Management Program .....		2,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>2,000</u>	

Total Hank Williams Memorial Association-Georgiana .....	<u>2,000</u>	<u>2,000</u>
44. HANK WILLIAMS, JIM OWEN SALUTES:		
(a) Historical Resources Management Program .....		2,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>2,000</u>	
Total Jim Owen Salutes Hank Williams .....	<u>2,000</u>	<u>2,000</u>
45. HELEN KELLER PROPERTY BOARD:		
(a) Historical Resources Management Program .....		35,000
Of the above appropriation, not more than \$10,000 shall be allocated to the Helen Keller Festival.		
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>35,000</u>	
Total Helen Keller Property Board .....	<u>35,000</u>	<u>35,000</u>
46. HIGH TECHNOLOGY ECONOMIC DEVELOPMENT FOUNDATION, INC.:		
(a) Industrial Development Program .....		25,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>25,000</u>	
Total High Technology Economic Development Foundation, Inc. ....	<u>25,000</u>	<u>25,000</u>
47. INTERSTATE MINING COMMISSION:		
(a) Planning Program .....		8,796
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>8,796</u>	

Total Interstate Mining Commission .....	<u>8,796</u>	<u>8,796</u>
48. JESSE OWENS MEMORIAL PARK:		
(a) Historical Resources Management Program .....		12,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>12,000</u>	
Total Jesse Owens Memorial Park .....	<u>12,000</u>	<u>12,000</u>
49. JUNIOR MISS PAGEANT, INC., ALABAMA'S:		
(a) Tourism and Travel Promotion Program .....		10,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>10,000</u>	
Total Alabama's Junior Miss Pageant, Inc. ....	<u>10,000</u>	<u>10,000</u>
50. JUNIOR MISS PAGEANT, INC., AMERICA'S:		
(a) Tourism and Travel Promotion Program .....		50,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>50,000</u>	
Total America's Junior Miss Pageant, Inc. ....	<u>50,000</u>	<u>50,000</u>
51. KETCHEPEDRAKEE CREEK WATERSHED CONSERVANCY DISTRICT:		
(a) Water Resource Development Program .....		1,400
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,400</u>	
Total Ketchepedrakee Creek Watershed Conservancy District ....	<u>1,400</u>	<u>1,400</u>
52. LAKE EUFAULA SUMMER SPECTACULAR:		
(a) Tourism and Travel Promotion Program .....		5,602

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>5,602</u>	
Total Lake Eufaula Summer Spectacular .....	<u>5,602</u>	<u>5,602</u>

## 53. LEE COUNTY HISTORICAL SOCIETY AND MUSEUM:

(a) Historical Resources Management Program .....		5,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>5,000</u>	
Total Lee County Historical Society and Museum .....	<u>5,000</u>	<u>5,000</u>

## 54. MALLARD FOX CREEK PORT AND INDUSTRIAL PARK:

(a) Special Services Program .....		500,000
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## SOURCE OF FUNDS:

(1) State General Fund-Capital Outlay .....	<u>500,000</u>	
Total Mallard Fox Creek Port and Industrial Park .....	<u>500,000</u>	<u>500,000</u>

## 55. MINING MUSEUM, ALABAMA:

(a) Historical Resources Management Program .....		25,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>25,000</u>	
Total Alabama Mining Museum ..	<u>25,000</u>	<u>25,000</u>

## 56. MOBILE AREA MARDI GRAS ASSOCIATION:

(a) Tourism and Travel Promotion Program .....		2,800
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>2,800</u>	
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Total Mobile Area Mardi Gras Association .....	<u>2,800</u>	<u>2,800</u>
57. MOBILE CARNIVAL ASSOCIATION:		
(a) Tourism and Travel Promotion Program .....		2,800
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>2,800</u>	
Total Mobile Carnival Association .....	<u>2,800</u>	<u>2,800</u>
58. MOUNTAIN LAKES ASSOCIATION:		
(a) Tourism and Travel Promotion Program .....		25,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>25,000</u>	
Total Mountain Lakes Association .....	<u>25,000</u>	<u>25,000</u>
59. NOCCALULA FALLS:		
(a) Special Services Program .....		10,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>10,000</u>	
Total Nocalula Falls .....	<u>10,000</u>	<u>10,000</u>
60. OCTOBERFEST, INC. IN CULLMAN COUNTY:		
(a) Tourism and Travel Promotion Program .....		5,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>5,000</u>	
Total Octoberfest, Inc. in Cullman County .....	<u>5,000</u>	<u>5,000</u>
61. PEA RIVER HISTORICAL AND GENEALOGICAL SOCIETY:		
(a) Historical Resources Management Program .....		10,000



## SOURCE OF FUNDS:

(1) State General Fund .....	<u>10,000</u>	
Total Pea River Historical and Genealogical Society .....	<u>10,000</u>	<u>10,000</u>

## 62. PEA RIVER WATERSHED CONSERVANCY DISTRICT:

(a) Water Resource Development Program .....		11,400
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>11,400</u>	
Total Pea River Watershed Conservancy District .....	<u>11,400</u>	<u>11,400</u>

## 63. PEANUT FESTIVAL ASSOCIATION, INC., NATIONAL:

(a) Tourism and Travel Promotion Program .....		15,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>15,000</u>	
Total National Peanut Festival Association, Inc. ....	<u>15,000</u>	<u>15,000</u>

## 64. PIKE COUNTY PIONEER MUSEUM ASSOCIATION:

(a) Historical Resources Management Program .....		5,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>5,000</u>	
Total Pike County Pioneer Museum Association .....	<u>5,000</u>	<u>5,000</u>

## 65. RIVERBOAT COMMISSION, INC., MONTGOMERY:

(a) Tourism and Travel Promotion Program .....		15,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>15,000</u>	
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Total Riverboat Commission Inc., Montgomery .....	15,000	15,000
66. RODEO ASSOCIATION, ALABAMA HIGH SCHOOL:		
(a) Special Services Program .....		10,000
SOURCE OF FUNDS:		
(1) State General Fund .....	10,000	
Total Alabama High School Rodeo Association .....	10,000	10,000
67. SENIOR BOWL-MOBILE:		
(a) Tourism and Travel Promo- tion Program .....		40,000
SOURCE OF FUNDS:		
(1) State General Fund .....	40,000	
Total Senior Bowl-Mobile .....	40,000	40,000
68. SHELBY COUNTY HIS- TORICAL ASSOCIATION:		
(a) Historical Resources Manage- ment Program .....		8,750
SOURCE OF FUNDS:		
(1) State General Fund .....	8,750	
Total Shelby County Historical Association .....	8,750	8,750
69. SICKLE CELL EDUCA- TION PROGRAM:		
(a) Jefferson County Sickle Cell Foundation .....		274,000
(b) Southeast Alabama Sickle Cell Association .....		175,000
(c) Southwest Alabama Sickle Cell		189,500
(d) Sickle Cell Foundation of Greater Montgomery .....		81,500
(e) West Alabama Sickle Cell Foundation .....		7,500
(f) Northeast Alabama Sickle Cell .....		5,000
SOURCE OF FUNDS:		

(1) State General Fund .....	<u>732,500</u>	
Total Sickie Cell Education Program .....	<u>732,500</u>	<u>732,500</u>
70. SIMPSON-MAY CERE- BRAL PALSY CENTER:		
(a) Financial Assistance Program .....		35,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>35,000</u>	
Total Simpson-May Cerebral Palsy Center .....	<u>35,000</u>	<u>35,000</u>
71. SOUTHERN CENTER FOR INTERNATIONAL STUD- IES:		
(a) Special Services Program .....		18,750
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>18,750</u>	
Total Southern Center for Inter- national Studies .....	<u>18,750</u>	<u>18,750</u>
72. SOUTHERN CHAMPION- SHIP CHARITY HORSE- SHOW:		
(a) Tourism and Travel Promo- tion Program .....		3,110
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>3,110</u>	
Total Southern Championship Charity Horseshow .....	<u>3,110</u>	<u>3,110</u>
73. SPIRIT OF AMERICA FES- TIVAL, INC.:		
(a) Tourism and Travel Promo- tion Program .....		2,801
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>2,801</u>	

Total Spirit of America Festival, Inc. ....	<u>2,801</u>	<u>2,801</u>
74. ALABAMA SPORTS FESTIVAL:		
(a) Tourism and Travel Promotion Program .....		31,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>31,000</u>	
Total Alabama Sports Festival ....	<u>31,000</u>	<u>31,000</u>
75. ST. CLAIR COUNTY HISTORICAL SOCIETY:		
(a) Historical Resources Management Program .....		5,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>5,000</u>	
Total St. Clair County Historical Society .....	<u>5,000</u>	<u>5,000</u>
76. STEER SHOW ASSOCIATION, ALABAMA STATE:		
(a) Agricultural Development Services Program .....		15,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>15,000</u>	
Total Alabama State Steer Show Association .....	<u>15,000</u>	<u>15,000</u>
77. STETSON HOEDOWN:		
(a) Special Services Program .....		5,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>5,000</u>	
Total Stetson Hoedown .....	<u>5,000</u>	<u>5,000</u>
78. TALLACOOSA HIGHLAND LAKES ASSOCIATION:		
(a) Tourism and Travel Promotion Program .....		5,602
SOURCE OF FUNDS:		

(1) State General Fund .....	<u>5,602</u>	
Total Tallacoosa Highland Lakes Association .....	<u>5,602</u>	<u>5,602</u>
79. TALLASSEEHATCHIE CREEK WATERSHED CONSERVANCY DISTRICT:		
(a) Water Resource Development Program .....		1,237
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,237</u>	
Total Tallasseehatchie Creek Watershed Conservancy District ....	<u>1,237</u>	<u>1,237</u>
80. TENNESSEE RIVER VALLEY ASSOCIATION:		
(a) Water Resource Development Program .....		8,708
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>8,708</u>	
Total Tennessee River Valley Association .....	<u>8,708</u>	<u>8,708</u>
81. TENNESSEE VALLEY PUBLICITY AND IMPROVEMENT ASSOCIATION:		
(a) Tourism and Travel Promotion Program .....		24,881
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>24,881</u>	
Total Tennessee Valley Publicity and Improvement Association ..	<u>24,881</u>	<u>24,881</u>
82. TERRAPIN CREEK WATERSHED CONSERVANCY DISTRICT:		
(a) Water Resource Development Program .....		1,400
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,400</u>	

Total Terrapin Creek Watershed Conservancy District .....	<u>1,400</u>	<u>1,400</u>
83. TRAVEL COUNCIL, ALA- BAMA:		
(a) Tourism and Travel Promo- tion Program .....		40,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>40,000</u>	
Total Alabama Travel Council ....	<u>40,000</u>	<u>40,000</u>
84. TRI-RIVERS WATERWAY DEVELOPMENT ASSOCIA- TION:		
(a) Water Resource Development Program .....		16,794
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>16,794</u>	
Total Tri-Rivers Waterway Devel- opment Association .....	<u>16,794</u>	<u>16,794</u>
85. VESTAVIA HILLS DOG- WOOD FESTIVAL AND TRAIL:		
(a) Tourism and Travel Promo- tion Program .....		1,500
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>1,500</u>	
Total Vestavia Hills Dogwood Fes- tival and Trail .....	<u>1,500</u>	<u>1,500</u>
86. VETERANS DAY COM- MITTEE, NATIONAL:		
(a) Historical Resources Manage- ment Program .....		4,358
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>4,358</u>	
Total National Veterans Day Committee .....	<u>4,358</u>	<u>4,358</u>
87. VETERANS DAY IN ALA- BAMA:		
(a) Historical Resources Manage- ment Program .....		1,244

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>1,244</u>	
Total Veterans Day in Alabama ...	<u>1,244</u>	<u>1,244</u>

## 88. W. C. HANDY PROPERTY BOARD:

(a) Historical Resources Management Program .....		25,000
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Of the above appropriation \$10,000 shall be allocated to the W. C. Handy Festival.

## SOURCE OF FUNDS:

(1) State General Fund .....	<u>25,000</u>	
Total W. C. Handy Property Board .....	<u>25,000</u>	<u>25,000</u>

## 89. WILKERSON CREEK WATERSHED DISTRICT:

(a) Historical Resources Management Program .....		3,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>3,000</u>	
Total Wilkerson Creek Watershed District .....	<u>3,000</u>	<u>3,000</u>

## 90. Y.M.C.A. YOUTH LEGISLATURE:

(a) Special Services Program .....		15,000
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## SOURCE OF FUNDS:

(1) State General Fund .....	<u>15,000</u>	
Total Y.M.C.A. Youth Legislature .....	<u>15,000</u>	<u>15,000</u>

## 91. CLAY COUNTY BLUEBERRY FESTIVAL:

(a) Special Services Program .....		2,025
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(1) State General Fund .....	<u>2,025</u>	
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Total Clay County Blueberry Festival .....	<u>2,025</u>	<u>2,025</u>
92. POP WARNER NATIONAL ACADEMIC/FOOTBALL CHAMPIONSHIP BOWL:		
(a) Special Services Program .....		15,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>15,000</u>	
Total Pop Warner National Academic/Football Championship Bowl .....	<u>15,000</u>	<u>15,000</u>
93. PARENTS ANONYMOUS OF ALABAMA:		
(a) Social Services Program .....		75,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>75,000</u>	
Total Parents Anonymous of Alabama .....	<u>75,000</u>	<u>75,000</u>
94. BUCK CREEK WATERSHED:		
(a) Water Resource Development Program .....		25,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>25,000</u>	
Total Buck Creek Watershed .....	<u>25,000</u>	<u>25,000</u>
95. AMOS ALONZO STAGG BOWL:		
(a) Special Services Program .....		10,000
SOURCE OF FUNDS:		
(1) State General Fund .....	<u>10,000</u>	
Total Amos Alonzo Stagg Bowl ...	<u>10,000</u>	<u>10,000</u>
F. DEBT SERVICE FUNDED FROM THE STATE GENERAL FUND:		
1. General Obligation Capital Improvement Bonds, Series B, Estimated .....		996,875



## SOURCE OF FUNDS:

(1) State General Fund-Transfer	<u>996,875</u>	
Total General Obligation Capital Improvement Bonds, Series B, Estimated .....	<u>996,875</u>	<u>996,875</u>
2. General Obligation Coosa Waterway Bonds, Series A and B, Estimated .....		1,012,768

## SOURCE OF FUNDS:

(1) State General Fund-Transfer	<u>1,012,768</u>	
Total General Obligation Coosa Waterway Bonds, Series A and B, Estimated .....	<u>1,012,768</u>	<u>1,012,768</u>
3. General Obligation Docks Facilities Bonds, Series A-C, Estimated .....		<u>4,146,300</u>

## SOURCE OF FUNDS:

(1) State General Funds Transfer	<u>4,146,300</u>	
Total General Obligation Docks Facilities Bonds, Series A-C, Estimated .....	<u>4,146,300</u>	<u>4,146,300</u>
4. Inland Waterway Improvement Bonds, Series A, Estimated .....		178,775

## SOURCE OF FUNDS:

(1) State General Fund-Transfer	<u>178,775</u>	
Total Inland Waterway Improvement Bonds, Series A, Estimated .....	<u>178,775</u>	<u>178,775</u>
5. Tennessee-Tombigbee Waterway Bonds, Series A and C-D, Estimated .....		3,682,110

## SOURCE OF FUNDS:

(1) State General Fund-Transfer Estimated pursuant to Constitutional Amendment No. CCLXX as provided in Act No. 248, 1967 Regular Session .....	<u>3,682,110</u>	
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Total Tennessee-Tombigee Waterway Bonds, Series A, and C-D, Estimated .....	<u>3,682,110</u>	<u>3,682,110</u>
6. Corrections Institution Bonds, Estimated .....		1,900,438
SOURCE OF FUNDS:		
(1) State General Fund-Transfer, Estimated .....	1,900,438	
Pursuant to Constitutional Amendment No. 374 as provided for in Act No. 134, 1978 Second Special Session.		
Total Corrections Institution Bonds, Estimated .....	<u>1,900,438</u>	<u>1,900,438</u>
7. General Obligation Bonds, 1982, Series A and B, and General Obligation Refunding Bonds, 1983, Series A and B, Estimated .....		66,655,765
SOURCE OF FUNDS:		
(1) State General Fund-Transfer, Estimated .....	<u>66,655,765</u>	
Total General Obligation Bonds, 1982, Series A and B, and General Obligation Refunding Bonds, 1983, Series A and B, Estimated .....	<u>66,655,765</u>	<u>66,655,765</u>

**Section 3.** That, except as may be herein otherwise provided, that amounts herein specifically appropriated shall be in lieu of the amounts heretofore provided or appropriated by law for such purposes. That the amounts herein appropriated are the maximum amounts to be expended for the purposes herein designated and in no event shall the maximum expenditure provided for any items of expense exceed the amount allocated herein except as may be provided for under Sections 5 and 6 of this bill, as provided in the Budget Management Act of 1976, Sections 41-19-1 through 12, Code of Alabama 1975, and those appropriations herein made, except appropriations to the Alabama Alcoholic Beverage Control Board for the purchase of alcoholic beverages, are and shall be subject to the terms, conditions, provisions and limitations of Sections 41-4-80 through 96, Code of Alabama 1975, as amended, and the Budget Management Act of 1976, Sections 41-19-1 through 12, Code of Alabama 1975.

**Section 4.** That any surplus remaining in any appropriation herein made from the State General Fund to any office, department, bureau, board,

commission, or agency may be transferred, on order of the Governor, to any other appropriation herein made from the State General Fund when such appropriation to any office, department, bureau, board, commission, or agency is insufficient to pay salaries in that office, department, bureau, board, commission, or agency.

**Section 5.** In addition to appropriations herein made, all gifts, grants, contributions, appropriations, entitlements or any other funds, in excess of the amount carried in the bill, including grants by the Congress of the United States, municipalities or counties, to any department, division, board, bureau, commission, agency, institution, office or officer of the State of Alabama are hereby appropriated and, in the event the same are recurring, are reappropriated to such department, division, board, bureau, commission, agency, institution, office or officer to be used only for the purpose or purposes for which the grant or contribution was or shall be made. Further, all state, county, municipal and educational entities are authorized to disburse such sums as deemed necessary by mutual agreement between said entities and the State of Alabama, Department of Examiners of Public Accounts to partially defray the cost of auditing services performed by said agency. All such sums are hereby appropriated and reappropriated if necessary to the Department of Examiners of Public Accounts for audit services, to be expended through the fund established by Section 41-5-24, Code of Alabama 1975.

**Section 6.** Under the State and Local Fiscal Assistance Act of 1972, as amended, Public Law 92-512, 92nd Congress, any interest earned by the State thereon, together with any accruals or reversions accruing from Revenue Sharing Investments are hereby appropriated for General Government to be spent at the discretion of the Governor.

**Section 7.** All encumbered balances of a previous fiscal year appropriation other than the exclusions authorized in Section 41-4-93, Code of Alabama 1975, shall lapse on September 30 of the fiscal year immediately following the fiscal year for which the appropriation was made and shall revert to the credit of the State General Fund or the trust fund from which the appropriation or appropriations were made.

**Section 8.** That, if any section, paragraph, sentence, clause, provision, or portion of the Act or all or any portion of any appropriations herein made be held unconstitutional or invalid, it shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made not in and of itself unconstitutional or invalid.

**Section 9.** That all laws and parts of laws, general, special, private, or local in conflict with or inconsistent with the provisions of this Act be and the same are hereby expressly repealed.

**Section 10.** That each Department of the State funded through the provisions of this budget shall provide an equal opportunity for employment

and business opportunities for all citizens of this state without regard to sex or race.

**Section 11.** That this Act shall become effective October 1, 1985.

Approved May 17, 1985

Time: 3:05 P.M.

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Act No. 85-540

H. 1042—Rep. Preuitt

### AN ACT

Relating to the compensation of the Talladega County revenue commissioner; to provide that the county commission of Talladega County may set the salary of the county revenue commissioner from time to time within certain limitations; and providing an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Talladega County may set the salary of the county revenue commissioner from time to time at amounts of not less than \$20,000.00 nor more than \$35,000.00 per year with said salary to be paid out of the county general fund.

**Section 2.** The provisions of this act shall become effective October 1, 1985.

Approved May 17, 1985

Time: 2:40 P.M.

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Act No. 85-541

H. 544—Reps. Browder, Drake, Moore, Johnson (Roy), Reed, Holley, Parker, Bugg, Carter, Brakefield, Spratt, Newton, Martin, Thomas, Mitchell, Blakeney, Onderdonk, Lauderdale, Coburn, Albright, Bryant, Crow, Grayson, Rogers, Newman, Blake, Campbell, Harvey, Turner, Bowling, Buskey (John), Goodwin, Clark (D), Dutton, Boles, Richardson, and Britnell

## AN ACT

Providing for the development and establishment of an incentive-based pay plan for the teachers of the public schools of Alabama; provides career incentives for public school teachers; initiating a program of performance appraisal; establishing salary progressions for education personnel; and providing for the implementation of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Short Title. This act shall be known as the Alabama Performance-Based Career Incentive Program Act.

**Section 2.** Statement of Purpose. The purpose of the Alabama Performance-Based Career Incentive Program is to provide career incentive for public school teachers while initiating a program of performance appraisal to insure that the State of Alabama's commitment to excellence in education is carried out.

**Section 3.** Definitions. Wherever used within this act, the following words shall have the meanings as stated in this Section unless the context of the act clearly indicated otherwise.

a. Appraisal. A formal judgment by a trained evaluator of an individual's performance and the level of quality of that performance. Appraisal of classroom teaching performance shall be accomplished by direct observation of the performance to be appraised.

b. Appraisal Instrument. The formal, written device containing categories of behavior and levels of performance utilized by the evaluator when evaluating education personnel.

c. Approved Professional Development Program. A professional development program approved by the employing local school board and the State Superintendent of Education.

d. Commission. The Governor's Education Reform Commission as established in Section 16-6A-5, Code of Alabama 1975.

e. Days. Days shall mean working days to the exclusion of weekends and holidays.

f. Evaluator. A professional education employee who has been trained in methods of observation, appraisal, and interaction for the purpose of providing formal appraisal of performance of educational employees in local school systems.

g. Evaluation. For the purpose of this Act evaluation shall consist of two component features: (a) Formative evaluation will be such informal steps as may be taken, based upon observations by administrators and supervisors, to assess teaching performance with the purpose being limited to making recommendations and suggestions designed to improve teacher effectiveness; (b) summation evaluation

shall be those judgements made based upon direct observation and appraisal which shall be used to determine whether or not a teacher shall receive promotions, demotions, probation or termination

h. Local School Board. County and city boards of education, and the governing board of the Alabama Institute for Deaf and Blind and the Youth Services School District.

i. Performance. The carrying out of established tasks and activities as prescribed to the various classifications of educational employees.

j. Professional Certificate. The certificate issued to professional staff who possess or previously achieved tenure in a local school system within the State of Alabama or out-of-state teachers who have achieved tenure in any State where they may have worked or who have a minimum of five years of teaching experience.

k. Provisional Certificate. A three-year certificate issued to persons who have completed all requirements for initial certification as established by the State Board of Education.

l. Teaching Duties. Teaching duties shall encompass all professional activities which require professional certification by the State Board of Education at the local school level with the exception of the principal and assistant principal.

m. Written Notice. Requires written notice by U.S. Postal Service registered mail.

n. Approved evaluator. An approved evaluator is a staff member who has undergone State Department of Education training relative to conducting the evaluation process of the incentive pay program and has been properly approved by the State Superintendent of Education.

o. Teacher. Teacher shall include all professional personnel whom the State Board of Education requires to hold a provisional or professional certificate with the exception of the principal and assistant principal. This definition shall include but not be limited to librarians, counselors, boy and/or girl advisors, coaches, vocational educational coordinators, psychometrists and such others whom the State Board may require to be certified. In any instance where a person is required as a part of his or her job responsibilities to evaluate other teaching or instructional personnel, such person shall be deemed to be an administrator/supervisor and shall not be classified as a teacher.

**Section 4.** Governor's Educational Reform Commission. Nothing contained herein shall be construed as increasing, decreasing or

otherwise modifying the Governor's Educational Reform Commission as established in Section 16-6A-5, Code of Alabama, 1975, as amended.

Commencing with the 1985-86 school year, Phase I of the Alabama Performance-Based Career Incentive Program Act will be implemented and which includes Sections 5, 6, 7 and 8 of this act.

**Section 5. Appointment of Working Committee.**

a. There is hereby created a Working Committee of the Commission which shall be appointed in accordance with this act and which shall have completed its operational activities by July 1, 1987. The Working Committee shall devise an appraisal program consistent with the provisions of this act. The committee will consist of 35 members.

Five members of the committee shall be appointed by the Governor, three of whom must be classroom teachers and two of whom must be elementary/secondary school administrators. The Governor shall appoint the chair and vice chair of the working committee from the membership of the committee.

Fifteen of the members shall be public school teachers and appointed by the Executive Secretary of the Alabama Education Association; fifteen of the members shall be appointed by the State Superintendent of Education from any of the following groups: local school superintendents, principals, supervisors, lay public, business and industry and parents and teachers associations. Any vacancies that occur after the original appointment shall be filled by appointment from the constituency in which the vacancy occurred.

b. The members of the committee shall be appointed by June 1, 1985. No later than the fifth working day after the appointment of all committee members as specified in Section 5 (a), the Governor shall call the first meeting of the Working Committee; the committee shall begin deliberations. Later meetings shall be called by the chair, or by the vice chair in the chair's absence, or at the written request of 12 of the members. A minimum of 7 days notice shall be given all committee members prior to any meeting. The committee expenses shall be paid from funds available for this purpose and at prevailing rates allowed by state rules and regulations. Consultant expenses shall be paid from funds available for this purpose according to a schedule to be established by the State Board of Education.

c. Responsibility for fiscal operation of the committee and any accompanying activities shall rest with the Executive Director of the Governor's Educational Reform Commission, who shall submit claims for all authorized expenses to the State Superintendent of Education for payment.

d. Organizations or persons responsible for appointment of members of the Working Committee and evaluators shall insure equitable representation by minority groups.

**Section 6.** Appointment and Functions of Appraisal Review Committee. There is hereby created an Appraisal Review Committee which shall react to and provide input on all activities of the Working Committee. The Appraisal Review Committee shall consist of the following membership:

a. The State Superintendent of Education and the Executive Secretary of the organization representing the majority of teachers, who shall serve as co-chairs of the Appraisal Review Committee.

b. One elementary, one middle school/junior high school and one secondary professional teacher, to be chosen from each local school district by a majority vote of the professional educators employed in each local school system.

c. Each superintendent of each local school board or the superintendent's designee.

d. One principal or supervisor from each local school system to be selected by principals and supervisors in such system.

e. Forty persons, 20 each to be appointed from the membership of the Alabama Association of School Boards and the Board of Directors of the Alabama Congress of Parent Teachers and to be chosen respectively by said Boards.

**Section 7.** Responsibilities for Implementation of Performance-Based Career Incentive Program.

a. Working Committee Responsibilities. Functioning in conjunction with the Appraisal Review Committee, the Working Committee shall develop fully the appraisal program to include but not be limited to development of job descriptions as further described herein, development of the appraisal instrument, and any other matter required to fully develop the appraisal program. Job descriptions for all positions to be evaluated shall be completed no later than October 1, 1985. The appraisal instrument for each position shall be prepared in sufficient time to be ready for use for inservice training of prospective evaluators. The committee shall insure that prior to final approval the appraisal instrument is made available on a statewide basis for review by interested parties. The committee shall establish a mechanism for discussion by and receipt of input from interested parties prior to October 1, 1985.

b. The working committee in subsection a. above shall continue in existence until June 30, 1987. The appraisal program and all instruments developed by the working committee shall be submitted



to the Legislative Council for its consideration and approval. Failure of the Council to so approve will remand the documents back to the working committee which shall note the objections of the Council and shall take such steps as deemed necessary to meet the objections of the Legislative Council. Having done so, the working committee shall resubmit for approval to the Legislative Council. Upon the Council's approval such documents and instruments as have been approved will be provided to the state and local boards of education for use in implementation of the appraisal program for the 1986-87 academic school year. Upon the completion of the appraisal program the working committee may make such adjustments or changes in the instruments and documents as it deems appropriate subject to the same review and approval by the Legislative Council. As of July 1, 1987, upon the cessation of the working committee's existence further changes or modifications of the appraisal program shall be vested with the State Board of Education subject to the provisions of the Administrative Procedures Act.

c. State Superintendent Responsibilities. Upon completion of the Working Committee's responsibilities, the State Superintendent of Education shall take appropriate steps designed to orient all affected education employees to the Performance-Based Career Incentive Program. This orientation shall be structured so as to be completed no later than the end of the 1985-86 school year. The State Superintendent of Education shall take appropriate action during the 1985-86 school year as is necessary to fully train all evaluators who shall conduct or be responsible for the use of the appraisal instrument and organizing the appraisal program at the local level. Upon successful completion of training program for evaluators, the state superintendent shall issue a certificate and shall cause college curriculum for training administrators and supervisors to be modified to include appropriate content in evaluation for all new graduate degrees. The State Superintendent of Education shall insure that no later than the end of 1986-87 school year parent and community groups are oriented to the appraisal program. The State Superintendent of Education shall make available to the Working Committee technical assistance from the State Department of Education.

d. Local School Board Responsibilities. At the commencement of the 1985-86 and 1986-87 school years, local school boards shall classify all current teachers as Probationary or Professional I teachers according to the criteria contained in this Act. By October 1, 1986, local school boards shall initiate an organized and systematic program to implement this act. During the 1987-88 school year and thereafter local school boards shall implement the classification system for new teachers and continue all other activities necessary to carry out the provisions of this Act. In establishing the appraisal program the local

school board in addition to assigning each school principal primary responsibility for evaluation shall also insure the following:

1. Each school system shall have an appropriate number of approved evaluators designated and trained.
2. Each school system shall have an additional approved evaluator assigned who is not a member of that school staff.
3. Each professional educator appraised is provided a time for a feedback conference regarding the appraisal and is provided access to all appraisal documents.
4. Each professional educator shall receive the appraisal results within 15 days following the appraisal.
5. Each professional educator may request and receive an additional evaluation for each semester. Such re-evaluation shall be conducted by a person other than the original evaluator.

**Section 8.** Classification System for Current Teachers. Current teachers are those teachers who have been employed prior to or during the 1986-87 school year. Current teachers shall be classified as follows:

a. Probationary Teachers. To achieve probatiionary status a current teacher must meet the following criteria:

1. Meet all State Board of Education requirements for the issuance of a regular teaching certificate;
2. Hold a regular teaching certificate; and
3. Have not achieved tenure in any public school system.

b. Professional I Teachers. To achieve Professional I status a current teacher must meet the following criteria:

1. Meet all state board of education requirements for the issuance of a regular teaching certificate.
2. Hold a regular teaching certificate.
3. Have achieved tenure in a school system in any public school system prior to or at the beginning of the 1986-87 school year.

**Section 9.** Expansion of Classification Level For Current Teachers. Commencing with the 1987-88 school year, Phase II will be implemented for current teachers which include classification levels of Professional II and Master. Effective with the 1987-88 school year,

teachers may be classified as Professional II; and with the 1989-90 school year, as Master teacher as follows:

a. Professional II. To achieve status as a Professional II teacher, a current teacher must meet the following criteria:

1. Have no less than eight (8) years of total service in any public school system;

2. Have no less than two (2) years of service as a Professional I teacher;

3. Have received an overall rating of excellent during the preceding year of service as a Professional I teacher; and

4. Apply for a change in classification level no later than the last day schools are in session for the school year preceding the year for which a change in classification level is sought.

b. Master. To achieve status as a Master teacher, a current teacher must meet the following criteria:

1. Have no less than thirteen (13) years of total service in any public school system;

2. Have no less than two years of service as a Professional II teacher;

3. Have received an overall rating of excellent in each of the three years of service immediately preceding the year for which change to Master teacher level is sought;

4. Hold a Master's degree or its equivalent in the teaching field as established by the State Board of Education.

5. Have demonstrated ability to:

i. assist beginning teachers in the development of professional skills and knowledge;

ii. work constructively with other professionals in such activities as curriculum development, textbook selection, evaluation of goals, administrative committees, and in-service programs; and

iii. work constructively with parents to improve the educational program for students; and

6. Apply for a change in classification level no later than the last day schools are in session for the school year preceding the year for which a change in classification is sought.

**Section 10. Maintenance of Classification Level for Current Teachers.** To maintain status in a classification during the 1986-87 school year and thereafter, current teachers must meet the following requirements for the classification level held.

a. Probationary Teachers. To maintain current status a probationary teacher must meet the following criteria:

1. Undergo a minimum of three (3) evaluations annually;
2. Maintain an overall rating of satisfactory performance; and
3. Satisfactorily complete each school year an approved professional development program.

b. Professional I Teachers. To maintain current status a Professional I teacher must meet the following criteria:

1. Undergo a minimum of two (2) evaluations annually;
2. Receive for any two (2) evaluations an overall rating of satisfactory performance; and
3. Successfully complete each school year an approved professional development program.

c. Professional II Teachers. To maintain status a Professional II teacher must meet the following criteria:

1. Undergo a minimum of two (2) evaluations annually;
2. Receive for any two (2) evaluations an overall rating of excellent; and
3. Satisfactorily complete each school year an approved professional development program.

d. Master Teachers. To maintain current status a Master teacher must meet the following criteria:

1. Undergo a minimum of two (2) evaluations annually;
2. Receive for any two (2) evaluations an overall rating of excellent performance; and
3. Satisfactorily complete each school year an approved professional development program.

#### **Section 11. Time Limitations On Levels For Current Teachers.**

a. Professional I Level and Above. Current teachers who achieve Professional I, Professional II or Master status may remain at these classification levels so long as the current teacher meets the requirements for maintaining the classification level held.

b. Probationary Teachers. Failure on the part of a current teacher initially classified at the probationary level to achieve Professional I status is grounds for dismissal.

**Section 12. Performance-Based Career Incentive Program For New Teachers.** Commencing within the 1987-88 school year there is

hereby established a performance-based career incentive program for new teachers. A new teacher is any person who is not a current teacher. New teachers shall be classified commencing with the 1987-88 school year and thereafter as follows:

a. Intern Teachers. Intern teachers are new teachers who have successfully completed all requirements for the issuance of a provisional certificate.

b. Probationary Teachers. To achieve probationary status a new teacher must meet the following criteria:

1. Successfully complete one (1) year of service as an Intern teacher; and

2. Receive an overall rating of satisfactory performance on evaluations during the preceding year.

c. Professional I Teacher. To achieve status as a Professional I teacher, a new teacher must meet the following criteria:

1. Successfully complete two (2) consecutive years of service as a probationary teacher;

2. Achieve tenure in accord with the tenure laws of the State of Alabama; and

3. Receive an overall rating of satisfactory performance during each of the two (2) years of service as a Probationary teacher;

d. Professional II Teacher. To achieve status as a Professional II teacher, a new teacher must meet the following criteria:

1. Successfully complete five (5) years of service as a Professional I teacher;

2. Receive an overall rating of excellent in each of the three years of service immediately preceding the year for which change to Professional II teacher level is sought; and

3. Apply for a change in classification level no later than the last day schools are in session for the school year preceding the year for which a change in classification is sought.

e. Master Teacher. To achieve status as a Master teacher, a new teacher must meet the following criteria:

1. Successfully complete five (5) years of service as a Professional II teacher;

2. Receive an overall rating of excellent in each of the three years of service immediately preceding the year for which change to Master Teacher level is sought;

3. Hold a master's degree or its equivalent in the teaching field as established by the State Department of Education;

4. Have demonstrated ability to:

i. assist beginning teachers in the development of professional skills and knowledge;

ii. work constructively with other professionals in such activities as curriculum development, textbook selection, evaluation of goals, administrative committees, and inservice programs; and

iii. work constructively with parents to improve the educational program for students; and

5. Apply for a change in classification level no later than the last day schools are in session for the school year preceding the year for which a change in classification is sought.

**Section 13. Maintenance of Classification Level For New Teachers.** To maintain status in a classification, new teachers must meet the following requirements for the classification level held.

a. Intern Teacher. To maintain current status an Intern teacher must meet the following criteria:

1. Undergo a minimum of three (3) evaluations during the intern year;

2. Maintain an overall rating of satisfactory performance; and

3. Satisfactorily complete an approved professional development program.

b. Higher Classification Levels. New teachers who achieve status as a Probationary teacher, Professional I teacher, Professional II teacher or Master teacher must meet the same maintenance of classification level requirements as are established in this act for current teachers at each classification level.

**Section 14. Time Limitations On Levels For New Teachers.** The following time limitations for new teachers are imposed for the following levels.

a. Professional I Level And Above. New teachers who achieve Professional I, Professional II or Master status may remain at these classification levels so long as the current teacher meets the requirements for maintaining the classification level held.

b. Probationary Teachers. Failure on the part of a new teacher to achieve Professional I status is grounds for dismissal.

c. Intern Teachers. Failure on the part of an Intern teacher to achieve probationary status is grounds for dismissal.

**Section 15. Working Committee Responsibilities.** It shall be the responsibility of the Working Committee established by this act to develop job descriptions in accordance with this act for all levels of classification for current and new teachers. The Working Committee thereafter shall develop a job-related appraisal system in accordance with this act.

a. Descriptions of Classifications.

1. Intern Teachers. Job descriptions for intern teachers shall be specific for the teaching position and shall provide for special inservice and professional development programs designed to assist the beginning teacher. The local board of education may assign other duties as determined necessary.

2. Probationary, Professional I and Professional II Teachers. Job descriptions for current and new teachers employed as Probationary, Professional I or Professional II teachers shall be specific for the teaching position and shall provide that teachers who have achieved these classification levels shall have full-time teaching duties. In addition to a requirement for full-time teaching duties, the job description shall provide that other duties as assigned by the employer and professional development activities shall be part of the job.

3. Master Teachers. Current or new teachers who meet all requirements for achieving the level of Master teacher shall have at the time of requesting advancement to the status of Master teacher the option of requesting one of two optional job descriptions for Master teacher. Based on the needs of the local school system, the employing local school board, upon the recommendation of the local superintendent of education, shall designate which optional job description shall be utilized.

i. Master Teacher Option A. Job descriptions for Master teacher Option A shall be specific for the teaching position and shall provide for full-time teaching duties, other duties as assigned by the employer, and professional development activities.

ii. Master Teacher Option B. Job descriptions for Master teacher Option B shall be specific for the teaching position and shall provide for a minimum of four-fifth's (4/5) of the teacher's time to be spent on teaching duties. The remaining one-fifth (1/5) of the teacher's time shall be spent on other duties as assigned by the employer. Option B shall include a contract of ten (10) months,. These other duties may include but are not limited to the following:

a. Assist teachers in the development of professional skills and knowledges.

b. Develop Curriculum.

c. Improving and/or develop instructional programs and materials.

d. Participate in textbook selection.

e. Develop and participate in professional development activities or other related education activities.

b. Required Competencies of Professional II Teachers. Notwithstanding the foregoing provisions of this section, commencing no later than the beginning of a teacher's third year of successful service as a Professional II teacher, the local school board shall insure that the teacher has the opportunity to demonstrate the following competencies.

1. Assist beginning teachers in the development of professional skills and knowledge.

2. Work constructively with other professionals in such activities as curriculum development, textbook selection, evaluation of goals, administrative committees, and inservice programs.

3. Work constructively with parents to improve the educational program for students.

#### **Section 16.** Development of the Appraisal Instrument.

a. In developing the appraisal instrument the Working Committee shall take into consideration that appraisal of performance must be based upon a clear understanding by all involved parties of what duties and responsibilities are required. The Working Committee shall insure that a method of documentation of performance at established intervals is developed for use by the evaluator and the staff member. The evaluation process must be comprehensive in appraising those behaviors appropriate to the job requirements. Appraisals should be utilized to identify strengths and weaknesses for purposes of personal inservice development and as a basis for constructing programs for continuing staff improvement.

b. In developing the appraisal instrument the Working Committee shall establish criteria for determining the teacher's performance which criteria shall include but not be limited to comprehensive appraisal of the following categories:

1. Planning and instructional methods.

2. Classroom management practices.

3. Competence in subject matter.

4. Instructional program evaluation and student progress.

5. Human relations skills.



6. Professional growth and development.
7. Knowledge of learning and learners.
8. Student achievement.
9. Communication Skills.

c. The Working Committee shall insure that each category contains definitive and descriptive statements of specific behaviors expected and the degree to which each behavior must be performed in order to achieve a specific rating level. Performance expectations should reflect a realistic understanding of the particular teaching-learning environment and establish reasonable standards of behavior indicative of each level of quality. Statements in the appraisal instruments should be so constructed as to describe clearly the behavior observed and the level of quality represented.

d. The Working Committee shall establish a process through which student learning, the outcome of teaching, is examined, based on research, to determine a means of measuring the teacher's effectiveness through student achievement scores.

e. The Working Committee shall insure that the forms devised for performance appraisal are practical and easy to use by the evaluator, and are easily understood by the evaluated.

#### **Section 17. The Evaluator.**

a. The superintendent of each local school system is responsible for the evaluation of professional staff members employed in the school system. The Superintendent shall delegate to the principals the primary responsibility in carrying out the responsibilities for performance appraisal. Supervisors and assistant principals should be appropriately involved in the evaluation process. The superintendent and local board of education shall insure that sufficient personnel are available for the purpose of carrying out the appraisal program.

b. The principal shall insure that the role relationship in the appraisal process are clearly defined so that both the evaluator and those evaluated clearly understand the behaviors expected of each involved party.

#### **Section 18. The Evaluated.**

a. The appraisals should be carried out on a planned and scheduled program designed to insure that during the year the evaluated teacher receives the number of evaluations required to maintain the status which the teacher has achieved. At least one (1) appraisal shall be conducted each semester.

b. Upon request, one (1) additional evaluation shall be allowed the teacher for each evaluation required in 18 a. above.

c. Teachers whose performance has been appraised to be below the requirements to maintain the Professional II and Master Level shall be given the succeeding year as a probationary period within which to improve. Should requirements not be achieved by the end of the probationary period, the teacher will be placed in the next lower incentive level.

d. Teachers whose performance has been appraised to be unsatisfactory at the Professional I Level will be given the succeeding year as a probationary period within which to improve. Failure during the probationary period to achieve the requirements for maintaining Professional I status shall be grounds for dismissal.

**Section 19. Minimum Standards.** Notwithstanding any provisions of this Act, the job description and appraisal instruments to be developed by the Working Committee are intended to establish minimum standards of job performance.

Such minimum standards of job performance shall meet or exceed maximum standards presently existing in any local school system in the State of Alabama. Nothing contained in this Act shall prohibit local boards of education from setting higher standards for performance for employees provided such standards are approved by the State Superintendent of Education and do not result in any discrimination against any individual or group of individuals for racial, political, religious or reasons of sex, and provided such local standards are evaluated separately from the provisions of this Act and provided further that employees evaluated are compensated from local funds after having met additional local standards. No state funds may be withheld from an employee for failure of the employee to meet additional local standards.

**Section 20. Appeals Procedure.** The following procedures are instituted to assure that teachers have available to them a reasonable appeals procedure for performance evaluations which aggrieve the teacher.

a. Local Appeal Process. If a teacher, following a conference with the first evaluator, is dissatisfied with the local evaluation and wishes to receive a second evaluation, the teacher must request a second evaluation by providing written notice to the local superintendent within 15 days after receiving the original evaluation results. Upon receipt of written notice, the local superintendent shall order a second evaluation to be conducted by a different evaluator. The local superintendent will review both evaluations and may take such steps as the local superintendent believes appropriate to assure that a fair and reasonable performance evaluation has been provided the

teacher. If the teacher is dissatisfied with the local superintendent's disposition of the appeal, the teacher's appeal shall automatically be referred to the local school board for review and final local action. Upon receipt of the appeal, the local school board shall review procedures followed by the evaluators and the teacher's response to the evaluation. The local school board, after careful review, may either sustain the evaluation or reverse it based upon its determination that proper procedure was not followed. All local appeals must be concluded within 30 days following the filing of the teacher's notice of appeal, and the teacher must be provided written notice of the results of this deliberation within 15 days. Any teacher may appeal any evaluation through the local appeals process to the local school board.

b. Promotion Appeal. Any teacher who has attained professional I status or higher and has received two consecutive years of "excellent" and who during the third year immediately prior to the decision point concerning promotion to the next higher rank receives an evaluation of less than "excellent" shall be eligible to appeal.

c. Reduction In Rank Appeal. Any teacher who has attained Professional II or Master status and who has received two consecutive evaluations of less than "excellent" which may result in the teacher's being placed on probation or given a demotion in rank and pay shall be eligible to appeal.

d. Probationary Status Appeal. Any teacher who has attained Professional I status, or higher, and who has received two consecutive evaluations and is being considered for placement on probation shall be eligible to appeal.

e. Educator Performance Review/Re-evaluation Panel. There is hereby created the Educator Performance Review/Re-evaluation Panel (EPREP) which shall be comprised of the following:

1. Five persons named by the State Superintendent of Education, subject to the approval of the Executive Secretary of the Alabama Education Association (AEA).

2. Five persons named by the Executive Secretary of AEA, subject to the approval of the State Superintendent of Education.

3. Any vacancy shall be filled in the same manner as prescribed herein.

4. The member list shall be kept current and maintained in the office of the State Superintendent of Education.

The members shall serve as re-appraisers in state appeals cases under the performance program. In the case of an appeal under the

state level of the appeals process, the State Superintendent of Education and the Executive Secretary of AEA shall, on a rotating basis, randomly select three potential re-appraisers from the ten-member panel. The three names shall be submitted to the local school board and local teacher, each having the opportunity to strike one name from the list, with the teacher making the first strike. The remaining person shall serve as the re-appraiser for the appeal. The re-appraiser may utilize all records relative to the case in reaching a determination.

f. **Training of EREP Members.** Members of the EREP will receive continual, intensive training designed by the State Superintendent of Education, Executive Secretary of AEA, and the Executive Director of the Alabama School Board Association. Members will be familiarized with the overall evaluation process being performed in schools and the criteria being followed by local evaluators. The State Superintendent of Education shall provide staff upon request to assist in the training. Members will be paid according to a schedule to be developed by the State Board of Education.

g. **State Appeal Process.** Having exhausted the local appeals process, any teacher, who as the result of his/her last evaluation is denied a promotion, placed on probation or demoted, may enter the state appeals process. The overall year's evaluation will be considered in this determination. If the teacher is dissatisfied with the local school board's disposition of the appeal, the teacher may provide written notice to the State Superintendent of Education, requesting a review of the local evaluation by the Educator Performance Review/Re-evaluation Panel within 15 days following receipt of the decision of the local board and must also provide written notice of the appeal to the local school superintendent with the same time limit. Upon such written notice to the State Superintendent of Education a reappraiser will be selected as provided in section above. Within ten (10) days of the selection of the reappraiser, the State Superintendent of Education shall notify all parties and set a date for the reappraiser's visit. The reappraiser shall within five (5) days of the visit file a report, a copy of which shall be sent to the teacher, the State Superintendent of Education, the local superintendent, the local board of education, and the Executive Secretary of the AEA. The decision of the reappraiser shall be final and binding on all parties.

h. **Withdrawal of Appeal.** Nothing in this procedure shall preclude the withdrawal of an appeal by the teacher at any point in the process by written notice.

## **Section 21. Salary of Education Personnel.**

a. For the 1987-88 school year and thereafter shall be established state allotment supplement ranges for Professional II and Master

teachers which incorporate no less than a fiscal interval of \$5,000 between Professional I and Professional II and a fiscal interval of no less than \$6,000 between Professional II and Master teacher. At the Master level, an additional increment of \$1,000 shall be provided for teachers who hold AA certification, and an additional increment of \$1,000 shall be paid to teachers who hold doctorate degrees.

b. In developing local school system salary schedules, local boards of education shall structure salaries for those employees who do not have teaching duties as defined in Section 3, item 1 to ensure that salary differentials are consistent with the purposes and provisions of this act.

**Section 22.** Nothing contained in this act shall be construed as modifying the provisions of the teacher tenure law as codified in Sections 16-24-1 through 16-24-38, Code of Alabama 1975, inclusive, as amended.

Nothing herein shall limit the right of a teacher or local board to use any evaluations in cases under the provisions of the Alabama teacher tenure law.

All appeals provided in this Act shall be solely for the purpose of determination of the employee's salary under the Alabama Incentive Pay Program.

**Section 23.** Teachers who achieve a classification level shall remain at the level regardless of which local school board is the employer so long as the teacher continues to meet the maintenance of classification requirements for the classification achieved.

**Section 24.** No limit shall be placed on the number of teachers at any performance level contained in this act.

**Section 25.** Local Obligation. No local board of education shall be obligated to promote an employee under provisions of this Act, nor to provide salary increases unless the legislature shall appropriate funds sufficient for that purpose. The legislature considers the Alabama Performance-Based Career Incentive Program to be a state program that should be financed fully by state appropriations for state funded teacher units and those under the Alabama Minimum Program.

**Section 26.** The State Superintendent of Education shall submit a progress report on the implementation of Phase I of the Career Incentive Program to the Governor, members of the Alabama Legislature, and members of the State Board of Education by January 1, 1987. Such progress report shall include the evaluation instrument developed by the Working Committee established by this Act, any administrative procedures developed by the State Department of

Education and/or the Working Committee pursuant to the evaluation instrument, a summary of any training seminars and manuals developed, and the status of evaluations being conducted in each of the local schools systems. The State Director of Finance shall certify to the Legislature on the first legislative day of the 1987 Regular Session as to whether or not revenue is available in the projected estimates of revenue to the Alabama Special Educational Trust Fund for Fiscal Years 1987-88 through 1989-90 to implement Phase II of the Career Incentive Program. Before Phase II of the career Incentive Program can be implemented, the Legislature shall pass a new bill reaffirming its commitment to the Career Incentive Program as implemented in Phase I and affirming that sufficient funds are available to implement Phase II of the Career Incentive Program. If such bill is not passed by the end of the 1987 Regular Session of the Alabama Legislature, Phase II of the Career Incentive Program shall not be implemented.

**Section 27.** The State Superintendent of Education shall cause to be compiled annually a report to be submitted to the Governor, the Legislature, the State Board of Education and to the public. This report shall be comprehensive in nature and shall identify the number of teachers by race in each local system who during the past school year qualified for each step on the career ladder and shall project into the forthcoming school year the number of teachers by race who will be eligible for each step on the career ladder and the cost thereof. This report shall be available and disseminated each year by the time of the convening of the Interim Budget Committees of the House and Senate of the Alabama Legislature.

**Section 28.** Non-discrimination. It shall be the public policy of the State of Alabama that no person being evaluated under the provisions of this Act shall be discriminated against based on age, sex, race, color, religion or national origin. In the event the operation of this Act impacts adversely on any racial or ethnic group resulting in fewer members of that racial or ethnic group being placed on any of the respective steps of the career ladder than normally could be expected, the State Superintendent must take whatever action is needed to ensure that the adverse impact is eliminated.

To give force to this Act, the Legislature hereby established a special committee to investigate violations of the provisions of this Act regarding discrimination. The committee shall be composed of three (3) persons; one (1) to be appointed by the State Superintendent of Education, one (1) to be appointed by the Executive Secretary of AEA, and one (1) to be selected by the members appointed by the State Superintendent of Education and the Executive Secretary of AEA, respectively. If the two (2) persons so appointed cannot agree on a third person, the State Superintendent and the Executive

Secretary of AEA shall submit three (3) names each to the Governor, who shall select one (1) person from among the six (6) names submitted.

All complaints made under this Act alleging discrimination shall be filed with the State Superintendent of Education, who shall then refer said complaints to the special committee not later than thirty (30) days following receipt of the complaints. The special committee shall immediately institute its investigation and report its findings to the State Superintendent of Education not less than sixty (60) days following receipt of the complaints. The State Superintendent of Education shall act on the special committee's report not less than thirty (30) days following the receipt of the report from the special committee.

**Section 29. Regulations.** The Alabama State Board of Education is hereby authorized, upon the recommendation of the State Superintendent of Education, to adopt such regulations as are necessary to implement the requirements of this act.

**Section 30. Severability.** In the event any section, sentence, clause or portion of this act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this act.

**Section 31. Effective Date.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 3, 1985

Time: 2:35 P.M.

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Act No. 85-542

S. 7—Senator Bedford

## AN ACT

To provide preferential treatment towards admission to any medical research program for any disease deemed crippling or fatal, because of the lack of a known cure, for any sworn full time, regular employed state, county or municipal police officer or fire fighter.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Whereas the sworn, full time, regular employed state, county and municipal police officers of this state are required by law and policy to enforce the penal laws of the State of Alabama; and fire fighters must expose themselves to the dangers of fire suppression

and hazardous material incident control; and in so doing augment the dangers inherent in such duty; it is the sense of the Legislature of Alabama that if such police officers or fire fighters contract any disease deemed crippling or fatal, because of the lack of a known cure, such police officers or fire fighters shall be given preferential treatment towards admission to any research program at any state owned or supported medical facility, hospital or learning center in the State of Alabama.

**Section 2.** The provisions of this Act are severable, and if any part thereof be declared unconstitutional or void by any court of competent jurisdiction, such declaration shall not affect those parts remaining.

**Section 3.** All laws or parts of laws which conflict with this Act are repealed.

**Section 4.** This Act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved May 17, 1985

Time: 3:30 P.M.

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Act No. 85-543

S. 29—Senator Amari

## AN ACT

Relating to sales representatives; requiring written contracts between sales representatives and principals when commissions are involved; requiring the principal to furnish the representative with a signed copy of the contract; providing for the payment of commissions upon termination of certain agreements; providing for civil damages; providing an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** As used in this act:

(a) "Commission" means compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the dollar amount of certain orders or sales.

(b) "Principal" means any person who does not have a permanent or fixed place of business in this state and who:

1. Engages in the business of manufacturing, producing, importing, or distributing a product or products for sale to customers who purchase such product or products for resale;

2. Utilizes sales representatives to solicit orders for such product or products; and



3. Compensates the sales representatives, in whole or in part, by commission.

(c) "Sales representative" means any person who engages in the business of soliciting, on behalf of a principal, orders for the purchase at wholesale of the product or products of the principal.

**Section 2.** Whenever any principal enters into a contract with a sales representative for services to be rendered within this state and the contemplated method of compensation of the sales representative involves a commission, the contract shall be in writing and shall set forth the method by which the commission shall be computed and paid.

**Section 3.** The principal shall give a signed copy of each such contract to every sales representative who is a party thereto and shall obtain a signed receipt for the contract from each such sales representative.

**Section 4.** Whenever the compensation agreement between a sales representative and any principal is terminated and such agreement was not reduced to writing, all commissions due the sales representative by the principal shall be due and payable within seven (7) working days of such termination.

**Section 5.** Any principal who fails to retain a sales representative by written contract or fails to timely pay the sales representative shall be liable to the sales representative in a civil action for triple the damages sustained by the sales representative, including reasonable attorney's fees and costs.

**Section 6.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 7.** The provisions of this Act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** This act shall take effect October 1, 1985.

Approved May 17, 1985

Time: 3:30 P.M.

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Act No. 85-544

S. 86—Senator Dixon

## AN ACT

To amend Section 16-38-8, Code of Alabama 1975, so that reimbursement from any source made to the State Department of Education, Rehabilitation and Crippled

Children Service for state funds expended on behalf of clients do not revert at the end of a fiscal year.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-38-8, Code of Alabama 1975, is hereby amended to read as follows:

“Section 16-38-8.

“(a) The moneys appropriated by the state of Alabama, the funds deposited with the treasurer under the provisions of the federal act and any other funds accruing to the state for vocational rehabilitation training of disabled persons shall be used by the state board of education for the purposes set forth in this chapter, and the moneys appropriated and accruing shall be paid out upon requisition of the state superintendent of education upon the comptroller, who shall draw his warrants upon the treasurer for the amount for which requisition was made.

“(b) All reimbursements received by the State Department of Education, Rehabilitation and Crippled Children Service for state funds expended on behalf of clients shall not revert to the state treasury under the provisions of Section 41-4-93 but shall carry forward to the next fiscal year. All reimbursements described in this subsection are hereby appropriated and designated as continuing appropriations to the State Department of Education, Rehabilitation and Crippled Children Service to be expended on behalf of clients.”

**Section 2.** All laws or parts of laws in conflict with this Act are hereby repealed.

**Section 3.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:30 P.M.

Act No. 85-545

S. 87—Senators Goodwin, Teague,  
Corbett, Bishop, Menton,  
Little, Bennett, and Hand

## AN ACT

To amend Sections 40-18-15 and 40-18-35 of the Code of Alabama 1975, relating to state income tax deductions for individuals and corporations, so as to provide further for such deductions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 40-18-15 and 40-18-35 of the Code of Alabama 1975 are hereby amended to read as follows:

“§40-18-15.

“(a) In computing net income, there shall be allowed as deductions:

“(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered and including rentals and other payments required to be made as a condition of the continued use or possession for the purpose of trade or business of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

“(2) All interest paid or accrued within the taxable year on indebtedness, but, in the case of a nonresident, the proportion of such interest which the amount of gross income from sources within the state of Alabama bears to the amount of gross income from all sources within and without the state of Alabama;

“(3) The following taxes paid or accrued within the taxable year:

“a. Income taxes, Federal Insurance Contribution Act taxes, taxes on self-employment income and estate and gift taxes imposed by authority of the United States or any possession of the United States; provided, that the amount of such taxes apportioned by a nonresident taxpayer shall be determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

“b. State and local, and foreign, occupational license taxes and contributions to state unemployment funds.

“c. State and local, and foreign, real property taxes.

“d. State and local personal property taxes.

“e. State and local general sales taxes.

“f. The windfall profits tax imposed by 26 USCA 4986.

“g. The taxes described in paragraphs c, d, e and f shall be deductible only to the extent that such taxes are deductible for federal income tax purposes under 26 USCA 164 (relating to taxes) and in the case of a nonresident, these taxes shall be apportioned to Alabama by the ratio that the amount of adjusted gross income received from sources within Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

“h. In addition, there shall be allowed as a deduction state and local, and foreign taxes, except income taxes, and taxes imposed by authority of the United States or any possession of the United States, which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in 26 USCA 212 (relating to expenses for the production of income).

“(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise if incurred in trade or business.

“(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but, in the case of a taxpayer other than a resident of the state, only as to such transactions within the state;

“(6) Losses sustained during the taxable year of property not connected with the trade or business, but in the case of a taxpayer other than a resident of the state only of property within the state, if arising from fires, storms, shipwrecks or other casualty or from theft and not compensated for by insurance or otherwise. A loss described in this paragraph shall be allowed only to the extent that the amount of loss to such individual arising from each casualty, or from each theft, exceeds \$100.00. For purposes of the \$100.00 limitation of the preceding sentence, a husband and wife using the rate table in subdivision (2) of section 40-18-5 for the taxable year in which the loss is allowed as a deduction shall be treated as one individual. No loss described in this paragraph shall be allowed if, at the time of filing the return, such loss has been claimed on the federal estate tax return;

“(7) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama income tax law;

“(8) A reasonable allowance for the exhaustion, wear and tear of property from which any income is derived including a reasonable allowance for obsolescence;

“(9) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar condition in each case based upon the cost, including the cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue; and, in the case of leasehold interests, the deduction allowed by this section shall be equitably proportioned between the lessor and the lessee;

“(10) Charitable contributions to the extent allowed for federal income tax purposes under 26 USCA 170 (relating to charitable contributions and gifts), but not subsection (i) thereof (relating to nonitemized charitable deductions), as in effect on January 1, 1982. In the case of a nonresident individual, this deduction shall be limited to the amount determined by multiplying the amount described in the previous sentence by a fraction, the numerator of which is the taxpayer's adjusted gross income from all sources within the state of Alabama and the denominator is the taxpayer's adjusted gross income from all sources.

“(11) In the case of a resident individual, the deduction allowed such individual for federal income tax purposes by 26 USCA 219 (relating to retirement savings) as amended from time to time;

“(12) The deduction allowed for federal income tax purposes by 26 USCA 404 and 26 USCA 405 (c) (relating to qualified pension, profit sharing, stock bonus, annuity or bond purchase plans) as amended from time to time, provided, however, that contributions to such plans on behalf of individuals who are employees within the meaning of 26 USCA 401(c)(1) (relating to self-employed individuals) shall be deductible only if such individuals are residents.

“(13) For each individual income taxpayer, medical and dental expenses, including expenses for medicine and drugs and amounts paid for accident and health insurance, paid during the taxable year 1982 and each year thereafter, to the same extent and subject to the same limitations when applied to the taxpayer's adjusted gross income for state tax purposes, as prescribed under the laws of the United States in force and effect January 1, 1982, in relation to income taxes due the United States;

“(14) For each individual income taxpayer, all the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income, or for the management, conservation or maintenance of property held for the production of income;

“(15) Any expense not exceeding \$1,000.00 actually incurred during the taxable year in constructing on his property a family radioactive fallout shelter, as approved and certified by the state

department of civil defense, and any amount not exceeding \$1,000.00 which he contributed during the taxable year toward the construction of a community radioactive fallout shelter; and

“(16) a. An amount equal to the aggregate of the net operating loss carryovers to the taxable year, plus the net operating loss carrybacks to such year. For purposes of this subdivision, the term ‘net operating loss deduction’ means the deduction allowed by this paragraph.

“b. 1. A net operating loss for any taxable year ending after December 31, 1974, and before January 1, 1976 shall be a net operating loss carryback to the tax year preceding the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1975, and before January 1, 1977, shall be a net operating loss carryback to each of the two taxable years preceding the taxable year of such loss. A net operating loss for any taxable year ending after December 31, 1976, shall be a net operating loss carryback to each of the three taxable years preceding the taxable year of such loss.

“2. A net operating loss for any taxable year ending after December 31, 1976, shall be a net operating loss carryover to each of the five taxable years following the taxable year of such loss.

“c. The entire amount of the net operating loss for any taxable year (hereinafter referred to as the ‘loss year’) shall be carried to the earliest of the taxable years to which, by reason of paragraph b, such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed:

“1. With the modification specified in subparagraph 2 of paragraph e of this subdivision; and

“2. By determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter, and the taxable income so computed shall not be considered to be less than zero.

“d. For purposes of this subdivision, the term ‘net operating loss’ means, for any taxable year ending after December 31, 1974, the excess of the deductions allowed in computing the Alabama income by this section over the gross income in Alabama. Such excess shall be computed with the modifications specified in paragraph e of this subdivision.

“e. The modifications referred to in this subdivision are as follows:

“1. No net operating loss deduction shall be allowed.

“2. No deduction shall be allowed under section 40-18-19 (relating to personal exemptions). No deduction in lieu of any such deduction shall be allowed.

“f. In determining the amount of any net operating loss carryback or carryover to any taxable year, the necessary computations involving any other taxable year shall be made under the law applicable to such other taxable year.

“g. In the case of a taxable year beginning in 1974 and ending in 1975:

“1. In lieu of the amount specified in paragraph d of this subdivision, the net operating loss for such year shall be that portion of the net operating loss for such year, computed without regard to this subparagraph, which the number of days in the loss year after December 31, 1974, bears to the total number of days in such year.

“2. For purposes of the second sentence of subparagraph 2 of paragraph e this subdivision, the taxable income for such year shall be that portion of the net income for such year, computed without regard to this subparagraph, which the number of days in such year before January 1, 1975, bears to the total number of days in such year.

“(17) There shall be allowed resident taxpayers a deduction from the taxpayer's adjusted gross income for state income tax purposes of the total cost of installation for conversion from gas or electricity to wood as the primary energy source for heating their individual domestic homes for the taxable year during which such conversion was completed.

“(18) For individual resident taxpayers, alimony and separate maintenance payments, the amount deductible to be the same as the amount deductible for federal income tax purposes under 26 USCA 215 (relating to alimony payments) as in effect January 1, 1982.

“(19) Moving expenses paid or incurred during the taxable year to the same extent that such expenses are deductible, except as provided herein, for federal income tax purposes under 26 USCA 217 (relating to moving expenses), as in effect January 1, 1982. The term ‘new principal place of work’, as such term is made relevant hereto by the federal statute, means and includes only places of work located within the state of Alabama, and the deduction for moving expenses provided for herein shall be allowable only in the event that such ‘new place of work’ is located within the state of Alabama.

“(b) (1) (20) Any expense not exceeding \$35,000 actually incurred during the taxable year in removing from his property any architectural or transportation barriers to handicapped persons with non-ambulatory and semiambulatory disabilities; provided, however, that

any improvements resulting from such expense shall not be eligible to be capitalized for depreciation. In lieu of the deductions allowable to individual taxpayers, as provided in subdivisions (2), (3), (5), (6), (10), (13) and (14) of subsection (a) of this section, for the taxable years beginning on and after January 1, 1982, at the election of the taxpayer required to use the rate schedule in subdivision (1) of section 40-18-5, an optional standard deduction may be taken not to exceed 20 percent of the adjusted gross income or \$2,000.00, whichever is the lesser, and at the election of the taxpayer required to use the rate schedule in subdivision (2) of section 40-18-5, an optional standard deduction may be taken not to exceed 20 percent of the adjusted gross income or \$4,000.00, whichever is the lesser and, in addition to said deduction, a deduction for the amount of federal income tax paid or accrued within the taxable year; provided, that in the case of a nonresident taxpayer the deduction for the optional standard deduction shall be an amount equal to the optional standard deduction that would be allowable if the taxpayer were a resident taxpayer, multiplied by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama; and the amount of federal income tax so deductible to Alabama shall be determined by the ratio that the amount of adjusted gross income received from sources within the state of Alabama bears to the amount of adjusted gross income received from sources within and without the state of Alabama.

“(2) The exercise of the election to take the deduction provided for herein is irrevocable for the taxable year for which made and cannot be changed after the time prescribed by law for filing the income tax return; and, if separate returns are filed by husband and wife and one spouse elects to claim the deduction allowed herein, the election to claim such deduction will be denied unless the other spouse also elects to claim the deduction allowed herein.

“(c) The term ‘adjusted gross income,’ as used in this section, shall mean the gross income as defined by section 40-18-14, less:

“(1) The deductions allowed in this section which are attributable to a trade or business carried on by the taxpayer if such trade or business does not consist of the performance of services by the taxpayer as an employee;

“(2) Travel expenses, including the entire amount expended for meals and lodging, while away from home in the pursuit of a trade or business;

“(3) The deductions allowed by this section, other than expenses of travel, meals and lodging while away from home, which consist of expenses paid or incurred by the taxpayer in connection with the



performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer;

“(4) The deductions, other than those provided in paragraphs a, e and f, allowed by this section and which are attributable to property held for the production of rents or royalties;

“(5) The deductions, other than those provided in paragraph a, for depreciation and depletion, allowed by subdivisions (8) and (9) of subsection (a) of this section to a life tenant of property or to an income beneficiary of property held in trust; and

“(6) The deduction, other than those provided in subdivision (1) of this subsection, allowed by section 40-18-8 as losses from the sale or exchange of property.

“(d) In the case of a nonresident individual, the deductions allowed in subdivisions (1), (4), (6), (7), (8), (9) and (12) of subsection (a) of this section shall be allowed only if and to the extent that they are connected with income arising from a source within the state of Alabama, and a proper apportionment or allocation of the deductions with respect to sources of income within and without the state of Alabama shall be determined under rules and regulations prescribed by the department of revenue.”

“§40-18-35.

“In computing the net income of domestic corporations doing business in this state subject to the tax imposed by section 40-18-31, there shall be allowed as deductions items described in the following numbered subdivisions of this section. In computing the net income of foreign corporations doing business in this state subject to the tax imposed by section 40-18-31, there shall be allowed as deductions the items described in the following numbered subdivisions of this section, but only if, and to the extent that, such items are referable to or arise in connection with income of such corporations arising from sources within the state of Alabama; the proper apportionment and allocation of deductions of such foreign corporations with respect to the income arising from sources within and without the state of Alabama shall be determined under the rules and regulations prescribed by the department of revenue; provided, that in the case of foreign corporations doing business partly within and partly without Alabama where income is apportioned and allocated to Alabama the expense incurred by such corporation in connection with earning such income shall be apportioned to Alabama in such manner as shall fairly reflect the net income of the corporation attributable to its operations in Alabama; provided, that none of the deductions allowed by subdivision (12) of this section shall be subject to any such apportionment or allocation and all thereof shall be allowed in full, any provisions thereof to the contrary notwithstanding.

Subject to the limitations contained in the preceding sentence, there shall be allowed as deductions in computing the net income of corporations:

“(1) All ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business including a reasonable allowance for salaries and other compensation for personal services actually rendered and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity;

“(2) All interest paid or accrued within the taxable year on its indebtedness except on indebtedness incurred or continued to purchase or carry obligations or securities, other than obligations of the United States issued after September 24, 1917, the interest upon which is wholly exempt from taxation under this title as income to the taxpayer; in the case of a foreign corporation, the proportion of such interest which shall be deductible shall be a portion of such interest determined by the ratio the amount of its gross income from sources within the state of Alabama bears to the amount of its gross income from all sources both within and without the state of Alabama;

“(3) Taxes paid or accrued within the taxable year imposed (i) by the authority of the United States; (ii) by authority of any of its possessions; or (iii) by the authority of any state or territory, or any county, school district, municipality, or other taxing subdivision of any state or territory not including income tax and not including those assessed for local benefits of a kind tending to increase the value of the property assessed but excluding the income taxes levied and imposed under this title. In the case of a foreign corporation, taxes paid or accrued within the taxable year imposed by the authority of the state of Alabama or any county, school district, municipality or any other taxing subdivision of the state of Alabama excluding the income taxes levied and imposed under this title and the amount of taxes other than income taxes imposed by other authorities mentioned in this subdivision which shall be deductible by such foreign corporations shall be determined by the ratio that the gross income of the foreign corporation from sources within the state of Alabama bears to its gross income from all sources both within and without the state of Alabama; the amount of federal income tax which shall be deductible by such foreign corporation shall be determined by the ratio that the net income, as computed without any deduction for any applicable federal, state or local taxes on net income or any federal or state or local taxes measured by net income, of the corporation on business done within Alabama bears to its net income, as computed without any deduction for any applicable federal, state or local taxes on net income or any federal or state, or local taxes

measured by net income, from business done both within and without the state of Alabama;

“(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise;

“(5) Losses from debts ascertained to be worthless and charged off during the taxable year of such ascertainment, if sustained in the conduct of the regular trade or business of the taxpayer during the period covered by an Alabama tax law;

“(6) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence;

“(7) In the case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon the cost, including cost of development not otherwise deducted, such reasonable allowance in all cases to be made under rules and regulations to be prescribed by the department of revenue; in the case of leases the deductions allowed by this subsection shall be equitably apportioned between the lessor and the lessee;

“(8) In the case of marine insurance companies, there shall be allowed amounts repaid to policy holders on account of premiums previously paid by them and interest paid on such amounts between the ascertainment and the payment thereof;

“(9) In the case of mutual insurance companies, other than mutual life or mutual marine insurance companies requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses and reinsurance reserves;

“(10) Contributions or gifts made within the taxable year to recognized religious, charitable and scientific or educational institutions, or institutions for the prevention of cruelty to children or animals which are not operated for profit and no part of the net earnings of which inures to the benefit of any private stockholder or individual, the amount of such deduction not to be, however, in excess of five percent of the taxpayer's net income as computed without the benefit of this subsection; such contributions or gifts shall be allowable as deductions only where made to institutions recognized as institutions for the above purposes under rules and regulations prescribed by the department of revenue;

“(11) The deduction allowed for federal income tax purposes by 26 USCA 404 and 26 USCA 405, both as amended from time to time;

“(12) A deduction for any expense not exceeding \$35,000 actually incurred during the taxable year in removing from any facility or structure in operation in the state of Alabama any architectural or transportation barriers to handicapped persons with nonambulatory or semiambulatory disabilities; provided, however, that any improvements resulting from such expense shall not be eligible to be capitalized for depreciation.

“(13) All amounts invested during the taxable year in all devices, facilities or structures and all identifiable components thereof or materials for use therein, used or placed in operation in the state of Alabama, or to be used or placed in operation in the state of Alabama, acquired or constructed primarily for the control, reduction or elimination of air or water pollution; provided, that in lieu of deducting such amounts, the corporation may elect to amortize all such amounts over such period, not exceeding the useful life of devices, facilities or structures for which such amounts were expended, as it specifies in its tax return respecting the taxable year during which such amounts were expended, in which case it shall be entitled to appropriate deductions for the taxable years so specified; and provided further, that the taking of any deduction authorized by this subdivision shall be optional with the corporation; and that if any such deduction is taken with respect to such devices, facilities or structures, such corporation shall not be permitted any allowance for depreciation or obsolescence thereof otherwise allowable under this section; and

“(14) The amounts received during taxable years beginning on or before December 31, 1968, as dividends from a corporation, or any subsidiary corporation of which the parent organization owns as much as 50 percent of the capital stock, which is taxable under this title upon the net income of the parent corporation or the subsidiary; the amounts received after December 31, 1968, as dividends, including liquidating dividends, whether received in cash or property or both, from a corporation or any subsidiary corporation which is either taxable under this chapter upon its net income or exempt from taxation under this chapter by virtue of being an insurance company upon which the statutes of Alabama impose a tax upon, measured by, or with respect to its premium income, if at the time of the receipt of such dividends the corporation receiving such dividends is the owner of stock in the corporation distributing such dividends:

“a. Possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote; and

“b. Constituting at least 50 percent of the total of all classes of stock other than classes of stock which are limited and preferred as to dividends.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:30 P.M.

Act No. 85-546

S. 276—Senator Bailey

### AN ACT

To amend Section 12-17-61, Code of Alabama 1975, so as to provide that Dale and Houston Counties shall each have two resident district court judges; to amend Section 12-17-20, Code of Alabama 1975, so as to provide that the 21st Judicial Circuit shall have two resident circuit court judges and the 29th Judicial Circuit shall have three resident circuit court judges; to provide for the establishment and creation of said additional judgeships; to provide for the appointment or election, as provided herein, of the first judges to fill said judgeship; to provide for the powers, duties and responsibilities of said additional judgeships; to provide for the salary of said judgeships; to provide an appropriation to the unified judicial system for the maintenance of said judgeships; and, to provide effective dates.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-17-61, Code of Alabama 1975, is hereby amended to read as follows:

§12-17-61. Number of judges in each district; manner of election of judges generally.

Each county shall constitute a district and shall have one resident district judge, except that:

(1) Baldwin, Lee, Madison, Etowah, Morgan, Russell, Talladega, Tuscaloosa, Walker, Houston and Dale counties shall each have two resident district judges.

(2) Montgomery county shall have three resident district judges.

(3) Mobile county shall have four resident district judges.

(4) Jefferson county shall have 12 resident district judges, who shall be nominated and elected in the manner provided by law for the nomination and election of circuit judges in the county. Three of such district judges shall serve in the Bessemer division and nine shall serve in the Birmingham division.

(5) Calhoun and Cleburne counties shall constitute a district and shall have three resident district judges who shall be elected and run at large from both counties.

(6) Coosa and Clay counties shall constitute a district and shall have one resident district judge who shall be elected and run at large from both counties.”

**Section 2.** Section 12-17-20, Code of Alabama 1975, is hereby amended to read as follows:

“§12-17-20. Number of judges in each circuit.

(a) Except as otherwise provided in this section, each judicial circuit of the state shall have one resident circuit judge.

(b) In the following judicial circuits, there shall be the number of resident circuit judges listed below:

(1) There shall be two circuit judges in the first judicial circuit. The judge occupying judgeship No. 1 shall be the presiding judge.

(2) There shall be two circuit judges in the fourth judicial circuit.

(3) There shall be three circuit judges in the fifth judicial circuit.

(4) There shall be five circuit judges in the sixth judicial circuit.

(5) There shall be four circuit judges in the seventh judicial circuit.

(6) There shall be three circuit judges in the eighth judicial circuit.

(7) There shall be two circuit judges in the ninth judicial circuit.

(8) There shall be 24 circuit judges in the tenth judicial circuit.

(9) There shall be three circuit judges in the eleventh judicial circuit.

(10) There shall be three circuit judges in the twelfth judicial circuit.

(11) There shall be ten circuit judges in the thirteenth judicial circuit.

(12) There shall be three circuit judges in the fourteenth judicial circuit.

(13) There shall be seven circuit judges in the fifteenth judicial circuit. At least two judges shall be assigned to the criminal division of said circuit, and one or more judges shall be assigned to the civil division, in the discretion of the presiding judge.

(14) There shall be four circuit judges in the sixteenth judicial circuit.

(15) There shall be three circuit judges in the eighteenth judicial circuit.

(16) There shall be two circuit judges in the nineteenth judicial circuit.

(17) There shall be three circuit judges in the twentieth judicial circuit.

(18) There shall be two circuit judges in the twenty-first judicial circuit.

(19) There shall be two circuit judges in the twenty-second judicial circuit.

(20) There shall be six circuit judges in the twenty-third judicial circuit.

(21) There shall be two circuit judges in the twenty-fifth judicial circuit.

(22) There shall be two circuit judges in the twenty-sixth judicial circuit.

(23) There shall be two circuit judges in the twenty-seventh judicial circuit.

(24) There shall be three circuit judges in the twenty-eighth judicial circuit.

(25) There shall be three circuit judges in the twenty-ninth judicial circuit.

(26) There shall be two circuit judges in the thirtieth judicial circuit.

(27) There shall be two circuit judges in the thirty-first judicial circuit.

(28) There shall be two circuit judges in the thirty-second judicial circuit.

(29) There shall be two circuit judges in the thirty-third judicial circuit.

(30) There shall be two circuit judges in the thirty-seventh judicial circuit.

(31) There shall be two circuit judges in the thirty-eighth judicial circuit.

**Section 3.** There is hereby created and shall be established the office of District Judgeship No. 2 of Houston County, which shall be in addition to the one judgeship now existing. The existing judgeship shall be designated District Judgeship No. 1. The first judge of said additional District Judgeship No. 2 shall be appointed by the Governor immediately upon passage of this act to serve an

initial term lasting until the first Monday after the second Tuesday in January following the next general election held after said appointee has completed one year in office. Thereafter successors shall be elected to full terms of office as provided by law. Provided, that if the Governor has not made such initial appointment within 30 days after October 1, 1985, then the additional judgeship hereby created shall first be filled at the general election to be held in 1986, and the first judge so elected shall serve a full term of office beginning on the first Monday following the second Tuesday in January, 1987.

**Section 4.** The judge of said District Judgeship No. 2 shall have and exercise all of the jurisdiction, powers, rights and authority and possess all the qualifications, perform all duties, and be subject to the pains, obligations and penalties that other district judges may be subject to exercise and perform. The additional district judge provided for in this Act shall receive the same salary and supplements payable in the same manner as the existing district judge of Houston County.

**Section 5.** There is hereby appropriated from the state general fund the sum of \$149,930.00 to the Unified Judicial System to fund the additional district judgeship provided herein for the fiscal year beginning October 1, 1985. Provided, that if the additional judgeship herein created is not first filled until the general election to be held in 1986, as provided in Section 3, then the specific appropriation provided by this section for the fiscal year beginning October 1, 1985, shall revert to the State General Fund and there shall then be appropriated from the state general fund to the Unified Judicial System for the fiscal year 1986-87 such additional funding as may be required to fully fund the additional district judgeship in Houston County.

**Section 6.** There is hereby created and shall be established the office of Circuit Judgeship No. 2 in the 21st Judicial Circuit, which shall be in addition to the one circuit judgeship now existing. The existing circuit judgeship shall be designated Circuit Judgeship No. 1. The first judge of said additional Circuit Judgeship No. 2 shall be appointed by the Governor immediately upon passage of this act to serve an initial term lasting until the first Monday after the second Tuesday in January following the next general election held after said appointee has completed one year in office. Thereafter successors shall be elected to full terms of office as provided by law.

**Section 7.** The judge of said circuit judgeship No. 2 in the 21st Judicial Circuit shall have and exercise all of the jurisdiction, powers, rights and authority and possess all the qualifications, perform all the duties, and be subject to the pains, obligations and penalties that other circuit judges may be subject to exercise and perform. The additional circuit judge provided for in this Act shall receive the



same salary and supplements payable in the same manner as the existing circuit judge in the 21st Judicial Circuit.

**Section 8.** There is hereby appropriated from the state general fund the sum of \$113,625 to the Unified Judicial System to fund the additional circuit judgeship in the 21st Judicial Circuit for the fiscal year ending September 30, 1985, and the sum of \$159,190 for the fiscal year beginning October 1, 1985.

**Section 9.** There is hereby created and shall be established the office of circuit judgeship No. 3 in the 29th Judicial Circuit, which shall be in addition to the two circuit judgeships now existing. Provided, the additional circuit judgeship hereby created shall first be filled at the general election to be held in 1988, and the first judge so elected shall serve a full term of office beginning on the first Monday following the second Tuesday in January, 1989.

**Section 10.** The judge of said circuit judgeship No. 3 in the 29th Judicial Circuit shall have and exercise all of the jurisdiction, powers, rights and authority and possess all the qualifications, perform all the duties, and be subject to the pains, obligations and penalties that other circuit judges may be subject to exercise and perform. The additional circuit judge provided for in this Act shall receive the same salary and supplements payable in the same manner as the existing circuit judges in the 29th Judicial Circuit.

**Section 11.** There is hereby appropriated from the state general fund to the Unified Judicial System for the fiscal year 1988-89 such additional funding as may be required to fully fund the additional circuit judgeship in the 29th Judicial Circuit.

**Section 12.** There is hereby created and shall be established, effective upon the passage of this Act and its approval by the Governor, the office of District Judgeship No. 2 of Dale County, which shall be in addition to the one judgeship now existing. The existing judgeship shall be designated Judgeship No. 1. The first judge of said additional District Judgeship No. 2 shall be appointed by the Governor to serve an initial term beginning on the date of the passage of this Act and its approval by the Governor and lasting until the first Monday after the second Tuesday in January following the next general election held after said appointee has completed one year in office. Thereafter successors shall be elected to full terms of office as provided by law.

**Section 13.** The judge of said District Judgeship No. 2 shall have and exercise all of the jurisdiction, powers, rights and authority and possess all the qualifications, perform all the duties, and be subject to all the pains, obligations and penalties that other district judges may be subject to exercise and perform. The additional district judge provided for in Section 12 of this Act shall receive the same

salary and supplements payable in the same manner as the existing district judge of Dale County.

**Section 14.** There is hereby appropriated from the state general fund to the Unified Judicial System for the fiscal years 1985-86 and 1986-87 such additional funding as may be required to fully fund the additional district judgeship in Dale County.

**Section 15.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 16.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 17.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

Act No. 85-547

S. 286—Senator Corbett

## AN ACT

To amend Code of Alabama 1975, § 28-3A-3 (being Section 3, Act No. 80-529, Acts 1980, known as the Alcoholic Beverage Licensing Code) to provide that manufacturer, importer, wholesaler and warehouse licenses may be renewed in a dry county or dry municipality where the county or municipality was wet when the initial license was issued and the county or municipality subsequently votes dry, and to prohibit the sale or distribution of alcoholic beverages within a dry county (except in wet municipalities) or a dry municipality.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Code of Alabama 1975, § 28-3A-3 (being Section 3, Act No. 80-529, Acts 1980) is amended to read as follows:

§ 28-3A-3. Authority of board to issue licenses to engage in alcoholic beverage transactions.

(a) Subject to the provisions of this chapter and regulations promulgated thereunder, the board is authorized and empowered to issue and renew licenses to reputable and responsible persons for the following purposes:

(1) To manufacture, brew, distill, ferment, rectify, bottle or compound any or all alcoholic beverages within or for sale within this state.

(2) To import any or all alcoholic beverages manufactured outside the United States of America into this state or for sale or distribution within this state.

(3) To distribute, wholesale or act as jobber for the sale of alcoholic liquor.

(4) To distribute, wholesale or act as jobber for the sale of table wine and beer or either of them, to licensed retailers within the state and others within this state lawfully authorized to sell table wine or beer.

(5) To store or warehouse any or all alcoholic beverages for transshipment inside and outside the state.

(6) To sell and dispense at retail in a lounge, liquor and other alcoholic beverages.

(7) To sell and dispense at retail in an establishment habitually and principally used for the purpose of providing meals for the public, liquor and other alcoholic beverages for on-premises consumption.

(8) To sell liquor and wine at retail for off-premises consumption.

(9) To sell and dispense at retail in a club, liquor and other alcoholic beverages for on-premises consumption.

(10) To sell table wine at retail for off-premises consumption.

(11) To sell table wine at retail for on-premises and off-premises consumption.

(12) To sell beer at retail for on-premises and off-premises consumption.

(13) To sell beer at retail for off-premises consumption.

(14) To sell liquor and other alcoholic beverages at retail by retail common carrier with a passenger capacity of at least 10 people.

(15) To sell any or all alcoholic beverages at retail under special license issued conditioned upon terms and conditions and for the period of time prescribed by the board.

(16) To sell any or all alcoholic beverages at retail under a special event retail license issued for three days upon the terms and conditions prescribed by the board.

Provided, however, that such licenses may not be issued in dry counties where traffic in alcoholic beverages is not authorized by law therein. Provided the restriction of this paragraph shall not apply to the issuance of a renewal of a license under subdivisions (1), (2), (3), (4) and (5) where the county or municipality was wet when the initial license was issued and the county or municipality subsequently

votes dry; however, no importer or wholesaler licensee may sell or distribute alcoholic beverages within a dry county (except in a wet municipality therein) or within a dry municipality.

(b) The board is granted discretionary powers in acting upon license applications under the provisions of this chapter.

(c) Licenses issued under this chapter shall, unless revoked or suspended in the manner provided in this chapter, be valid for the license year which shall begin on the 1st day of October of each year, unless otherwise established by this chapter or by the board. Licenses may be issued at any time during the year."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

Act No. 85-548

S. 287—Senator Ellis

## AN ACT

To be known as the "Alabama Eminent Domain Code", providing standards for the acquisition of property by condemnors; provides the procedure for the condemnation action; establishes the standard for the conduct of condemnation actions; establishes the procedure for the determination of just compensation; provides compensation standards; provides the procedure for trial, judgment and postjudgment; provides for arbitration of compensation; provides standards related to evidence in condemnation actions; and repeals Section 18-1-1 through 18-1-32, of the Code of Alabama of 1975.

*Be It Enacted by the Legislature of Alabama:*

§ 101. Short Title.

This Act may be cited as the "Alabama Eminent Domain Code."

§ 102. Scope of the Code.

(a) This Code provides standards for the acquisition of property by condemnors, the conduct of condemnation actions, and the determination of just compensation. It does not confer the power of eminent domain, and does not prescribe or restrict the purposes for which or the persons by whom that power may be exercised.

(b) This Code supplements the law of this state relating to the acquisition of property and to the exercise of the power of eminent domain. In the event of conflict between this Code and any other law with respect to any subject governed by this Code, this Code prevails.

### § 103. Definitions.

As used in this Act:

- (1) "action" means condemnation action;
- (2) "appraisal" means an opinion as to the value of or compensation payable for property, prepared by the owner or under the direction of an individual qualified by knowledge, skill, experience, training, or education to express an opinion as to the value of property;
- (3) "business" means a lawful activity, whether or not for profit, other than a farm operation, conducted primarily for the purchase, sale, lease, rental, manufacture, processing, or marketing of products, commodities, or other property, or for providing services;
- (4) "condemn" means to take property under the power of eminent domain;
- (5) "condemnation action" includes all acts incident to the process of condemning property after commencement of suit;
- (6) "condemnee" means a person who has or claims an interest in property that is the subject of a prospective or pending condemnation action;
- (7) "condemnor" means a person empowered to condemn;
- (8) "crops" means any form of vegetation intended to be removed and used or sold for commercial purposes, including grass, flowers, fruits, vegetables, trees, vines, and nursery stock;
- (9) "farm operation" means any activity conducted primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing those products or commodities in sufficient quantity to be capable of contributing materially to the operator's support;
- (10) "improvement" includes any building or structure and any facility, machinery, or equipment that cannot be removed from the real property on which it is situated without substantial damage to the real property or improvement;
- (11) "lien" means a security interest in property arising from contract, mortgage, deed or trust, statute, common law, equity or creditor action;
- (12) "litigation expenses" means the sum of the costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, necessary to prepare for anticipated or participation in actual probate or circuit court proceedings;
- (13) "local public entity" means a public entity other than the State;

(14) "person" includes a natural individual, partnership, corporation, association, other legal or fiduciary entity, and a public entity;

(15) "personal property" means any property other than real property which is affixed or directly related to the real property proposed to be acquired;

(16) "property" means an interest in real or personal property under the law of this State;

(17) "real property" means land and any improvements upon or connected with land; and includes an easement, servitude, or other interest therein;

(18) "work" includes construction, alteration, repair, remodeling, excavation, demolition, rehabilitation, relocation and landscaping; and

(19) "valuation date" shall be the date on which the application for order of condemnation is filed in the probate court or the date of taking of or damage to property by the condemnor whichever date first occurs.

#### § 104. Agreement on Compensation and Other Relief.

At any time before or after commencement of an action, the parties may agree to and carry out according to its terms a compromise or settlement as to any matter, including all or any part of the compensation or other relief.

#### § 105. Compliance.

Notwithstanding any provision of this Code, a condemnor may comply with any federal statute, regulation, or policy prescribing a condition precedent to the availability or payment of federal financial assistance for any program or project for which the condemnor is authorized to exercise the power of eminent domain.

#### § 201. Application of Article.

(a) In order to encourage and expedite the acquisition of property by agreement, to avoid litigation and relieve congestion in the courts, to assure consistent treatment of owners, and to promote public confidence in practices and procedures relating to the acquisition of property for public use, a condemnor, when acquiring property, shall comply with applicable provisions of Sections 202 through 211.

(b) Section 202 through 211 apply to the purchase and acquisition of materials, supplies, equipment, or other personal property only if the condemnor determines to exercise its power of eminent domain with respect to that property or by reason of the exercise of such power substantially damages the same.

(c) Section 202 through 211 shall not apply to the purchase of lands under Chapter 3 of Title 18 of the Code of Alabama.

§ 202. Appraisal.

Before commencing a condemnation action, the condemnor shall cause the property to be appraised to determine the amount that would constitute just compensation for its taking. The owner or his representative shall be given a reasonable opportunity to accompany the appraiser during the inspection of the property.

§ 203. Offer to Purchase at Full Appraised Value.

(a) Before commencing a condemnation action, the condemnor shall establish an amount based on an appraisal which it believes to be just compensation therefor and promptly shall submit to the owner an offer to acquire the property for the full amount so established. The amount shall not be less than the condemnor's established amount of just compensation for the property.

(b) In a total taking, the condemnor shall disregard any decrease or increase in the fair market value of the property caused by the project for which the property is to be acquired or by the reasonable likelihood that the property will be acquired for that project, other than normal depreciation.

(c) The amount of compensation to which the owners and other parties interested therein are entitled must not be reduced or diminished because of any incidental benefits which may accrue to them or to their remaining lands in consequence of the uses to which the lands to be taken or in which the easement is to be acquired will be appropriated; provided, that in the condemnation of lands for ways and right-of-way for public highways, water or sewer lines, the commissioners may, in fixing the amount of compensation to be awarded the owner for lands taken for this use, take into consideration the value of the enhancement to the remaining lands of such owner that such highway, water or sewer lines may cause; and provided further, that in proceedings instituted by water conservancy districts and water management districts, benefits accruing to the landowner from an improvement may be considered and allowed as a setoff against the damages to be awarded, but benefits derived from improvements other than the improvement for which the land is condemned cannot be considered.

(d) The condemnor shall provide the owner of the property with a written statement and summary, showing the basis for the amount it established as just compensation for the property. If appropriate, the compensation for the property to be acquired and for the damages to remaining property shall be separately stated.

§ 204. Payment or Deposit Before Surrender of Possession.

An owner shall not be required to surrender possession of property before the condemnor:

- (1) pays the agreed purchase price; or
- (2) pays, or deposits in accordance with this Code, the amount awarded by the condemnation order.

§ 205. Notice to Terminate Occupancy.

Except in an emergency, a condemnor may not require a person lawfully occupying property to move from a dwelling, nor to move his business or farm operation, unless he has received written notice from the condemnor at least 90 days before the date by which the move is required.

§ 206. Rental Basis for Continued Occupancy.

If a condemnor, after acquiring property, rents all or part of the property to the former owner or tenant for a short term or for a period subject to termination by the condemnor on short notice, the amount of rent charged may not exceed the fair rental value of this property.

§ 207. Coercive Action Forbidden.

In order to compel an agreement on the price to be paid for the property, a condemnor may not arbitrarily advance the time of condemnation, arbitrarily defer negotiations or condemnation, nor take any other action coercive in nature.

§ 208. Offer to Acquire Uneconomic Remnant.

(a) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, the condemnor shall offer to acquire the remnant concurrently and may acquire it by purchase or by condemnation if the owner consents.

(b) "Uneconomic remnant" as used in this section means a remainder following a partial taking of property, of such size, shape, or condition as to be of little value or that gives rise to a substantial risk that the condemnor will be required to pay in compensation for the part taken an amount substantially equivalent to the amount that would be required to be paid if it and the remainder were taken as a whole.

§ 209. Acquisition of Improvements to be Removed.

A condemnor that acquires any interest in real property shall also acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property acquired, which the condemnor requires to be destroyed or removed or which will be adversely affected by the use to which the real property will be put.



§ 210. Compensation for Tenant-Owned Buildings and Structures.

(a) If a building, structure, or other improvement to be acquired by a condemnor under Section 209 is owned by a tenant,

(1) it shall be deemed for the purpose of determining compensation to be a part of the real property to be acquired notwithstanding the right or obligation of the tenant, as against the owner of any other interest in the real property, to remove it at the expiration of his term; and

(2) the compensation awarded shall include an amount sufficient to pay the tenant the larger of (i) the enhancement to the fair market value of the real property contributed by the improvement, or (ii) the fair market value of the improvement assuming its removal from the real property.

(b) Payment under this section shall not duplicate any payment authorized by law, and may be made only of the owner of the real property disclaims any interest in the improvement. In consideration for the payment, the tenant shall assign, transfer, and release to the condemnor all of his interest in the improvement.

(c) This section does not deprive the tenant of any right to reject payment hereunder and to seek to obtain payment for his interest in or damage to the improvement under any other law.

§ 211. Expenses Incidental to Transfer of Title; Interest on Award.

(a) As soon as practicable after payment of the purchase price, or payment of, or deposit in probate court, of funds to satisfy the award in a condemnation action, whichever is earlier, the condemnor shall pay, or reimburse the owner for, any reasonable and necessarily incurred expenses for:

(1) recording fees, transfer taxes and similar expenses incidental to conveying the property to the condemnor;

(2) penalty costs for prepayment of any debt secured by a preexisting lien, entered into or created in good faith, encumbering the property; and

(3) the prorated portion of property taxes allocable to a period after the date of vesting of title in, or the effective date of possession of the property by the condemnor, whichever is earlier.

(b) In the event of an appeal to the circuit court, the condemnor shall pay the owner interest upon any part of the award deposited in probate court and not made available to the owner within 40 days of the order of condemnation in the probate court at a rate equal to the rate allowed to be charged on money judgments as set forth

in Ala. Code § 8-8-10 as amended at the date of the final order in the circuit court, with the interest to be computed by the circuit court.

§ 212. Waiver.

If not inconsistent with the requirements of an applicable statute or regulation, a failure to satisfy the requirements or limitations imposed under Section 201 through 211, inclusive:

(1) is waived by the failure of the property owner, in the exercise of reasonable diligence, to object to or seek relief based upon non-compliance; and

(2) may be waived by written agreement between the property owner and the condemnor.

§ 213. Takings Without Condemnation Action.

(a) If the property is to be acquired by a condemnor through the exercise of its power of eminent domain, the condemnor shall commence a condemnation action for that purpose. A condemnor shall not intentionally make it necessary for an owner of property to commence an action, including an action in inverse condemnation, to prove the fact of the taking of his property.

(b) The judgment and any settlement in an inverse condemnation action awarding or allowing compensation to the plaintiff for the taking or damaging of property by a condemnor shall include the plaintiff's litigation expenses.

§ 214. Interpretation and Effect of Article.

(a) A failure to satisfy the requirements or limitations of Sections 201 through 213 does not affect the validity of the condemnor's interest in any property which it acquires by purchase or condemnation.

(b) This Article shall be construed to be consistent with the requirements of federal law governing financial assistance for any project or purpose.

§ 301. Entry for Suitability Studies.

(a) A condemnor and its agents and employees may enter upon real property for a reasonable time and make surveys, examinations, photographs, tests, soundings, borings, and samplings, or engage in other activities for the purpose of appraising the property or determining whether it is suitable and within the power of the condemnor to take for public use, if the entry is:

(1) preceded by reasonable efforts to notify the owner, and any other person known to be in actual physical occupancy of the property, of the time, purpose, and scope of the planned entry and activities;

(2) undertaken during reasonable daylight hours and for reasonable times;

(3) accomplished peaceably and without inflicting substantial injury; and

(4) not in violation of any other statute;

(b) The entry and activities authorized by this section do not constitute a trespass or constitute grounds for an inverse condemnation action, but the condemnor is liable under Sections 303 and 305 for resulting damages.

#### § 302. Court Order Permitting Entry.

(a) If reasonable efforts to accomplish a lawful entry or to perform authorized activities upon real property under Section 301 have been obstructed or denied or would be futile, the condemnor may apply to the circuit court in the county where the property or any part is located for an order permitting entry.

(b) Unless after notice good cause to the contrary is shown, the circuit court shall make its order permitting and describing the purpose of the entry and setting forth the nature and scope of activities the circuit court determines are reasonably necessary and authorized to be made upon the property. In addition to requiring a deposit under Section 303, the order may include terms and conditions with respect to the time, place, and manner of entry and authorized activities upon the property which will facilitate the purpose of the entry and minimize damage, hardship, and burden.

#### § 303. Bond for Probable Compensation.

(a) An order permitting entry under Section 302 shall include a preliminary assessment by the circuit court of the probable amount that will fairly compensate the owner and any other person in lawful possession or physical occupancy of the property for damages for physical injury to the property, and for substantial interference with its possession or use, found likely to be caused by the entry and activities authorized by the order, and shall require the condemnor other than the State to enter into bond in double the amount of such preliminary assessment, with good and sufficient sureties, to pay such damages as the property owner or other person in lawful possession or physical occupancy of the property may sustain. The bond must be given before entry is made.

(b) Unless sooner disbursed by agreement or court order, the amount of the bond sufficient to cover the damages sustained shall be paid to those determined by the circuit court to be entitled thereto upon termination of the activities as permitted in Section 301 (a). The circuit court for good cause may extend the period of retention.

(c) Upon the filing of an application for condemnation within the period of retention specified in (b) naming as defendants the persons for whose benefit the bond was made or their successors in title and seeking to condemn for the public use for which entry was authorized hereunder, then the damages for injury to the property or for substantial interference with its possession and use shall be merged with and included within the compensation and damages ascertained in such condemnation proceeding, and the bond shall be refunded to the condemnor. In the event no such condemnation proceeding is instituted prior to the expiration of the period of retention, then the amount of damages for physical injury to the property and for substantial interference with its possession or use shall be determined as in other civil cases by the circuit court or, on demand of either party, by a jury and the award shall include interest at a rate equal to the rate allowed to be charged on money judgments as set forth in Ala. Code § 8-8-10 as amended at the date of the final order in the circuit court, with the interest to be computed by the circuit court.

If the deposit is paid out prior to filing the condemnation action any such payment covering areas condemned shall be credited by the Court to the final payment by the condemnor.

#### § 304. Modification of Court Order.

(a) After notice and hearing, the circuit court may modify an order made under Section 302.

(b) If a bond is required or the amount required is increased by an order of modification, the circuit court shall specify the time within which the required bond must be posted, and may direct that any further entry or specified activities or studies under the order as modified be stayed until any required bond has been given.

#### § 305. Recovery of Damages, Costs and Expenses.

(a) A condemnor is liable for physical injury to, and for substantial interference with possession or use of, property caused by his entry and activities upon the property. This liability may be enforced in a subsequent condemnation proceeding filed within the period specified as a retention period in Section 303 or, if no such proceeding is filed within such period of time, by civil action with the right of trial by jury on demand of either party.

(b) If funds are on deposit under Section 303 or 304, the owner or other person entitled to damages under subsection (a) may apply to the circuit court for payment of his damages from such funds. If the amount on deposit is insufficient to pay the full amount, the circuit court shall enter judgment against the condemnor for the unpaid portion.

### § 306. Preliminary Efforts to Purchase.

An action to condemn property may not be maintained over timely objection by the owner unless the condemnor has offered to acquire the property on the basis of its approved offer by purchase before commencing the action.

### § 401. Procedure Generally.

The procedure for condemnation of property under the power of eminent domain is governed by the Alabama Rules of Civil Procedure except as otherwise provided in this Code. The procedure in the probate courts shall be as provided in this Code.

### § 402. Commencement of Condemnation Action; Venue.

A condemnation action is commenced by filing a complaint for condemnation with the probate court in the county in which the property or any part thereof sought to be taken is located.

### § 403. Contents of Complaint.

(a) In addition to other allegations required or permitted by law, the complaint shall:

(1) designate as a plaintiff each person on whose behalf the property is sought to be taken;

(2) name as defendants all persons who to the plaintiff's knowledge are owners of or who have or claim any interest in the property sought to be taken; specify the nature of each defendant's interest. Defendants whose names are not known may be included under the designation "unknown claimants" provided reasonable diligence has been used to ascertain the same, and where the interest of the defendant is unknown the complaint may so state;

(3) contain a legal description of the property and of the interest therein sought to be taken;

(4) allege the basis of the plaintiff's right to take the property by eminent domain and maintain the action, including (i) a reference to the plaintiff's legal authority to take the property; and (ii) a statement of the purpose for which the property is sought to be taken; and

(5) list all items which the condemnor proposes to acquire and which it deems to be equipment or fixtures attached to or a part of the realty.

(b) If the property sought to be condemned or any portion thereof or interest therein has already been subjected to or devoted to a public use, such land or portion thereof or interest therein shall not be taken for another and different character of public use, unless an

actual necessity for the specific land or portion thereof or interest therein shall be alleged and proven and unless it be alleged and proven that such other and different character of public use will not materially interfere with the public use to which such property is already subjected or devoted.

(c) Any corporation, person or association of persons owning a railroad or street railroad in this state and proposing to cross or intersect the line of another railroad or street railroad may acquire an easement for such purpose and to that end may pursue the mode of proceeding prescribed in this chapter.

(d) For purposes of information and notice, the complaint shall be accompanied by a map or diagram portraying the property sought to be taken and the remainder, if any.

#### § 404. Consolidation and Separation of Properties and Issues.

(a) Where there are several tracts of land lying within one county of which portions are proposed to be taken, or in which an interest or easement is proposed to be acquired, the plaintiff may join them all in separate paragraphs in the same complaint.

(b) If there are several distinct tracts of land owned, claimed or held by different persons embraced in the complaint, the owners of each tract or other party interested therein may have a separate hearing as to the right to condemn their lands, and the probate court may, if it finds that the application should be granted as to some and not as to other of the owners or other parties, make and enter its decree accordingly.

#### § 405. Service of Process.

(a) On the filing of the complaint, the probate court must enter and order appointing a day for the hearing thereof and must issue to the defendants a copy of the complaint and notice of the day set for the hearing unless such notice is waived.

(b) Service upon a defendant of the notice with a copy of the complaint may be made in accordance with Rule 4 of the Alabama Rules of Civil Procedure.

#### § 406. Recording Notice of Pending Action.

(a) After commencement of a condemnation action, the plaintiff shall cause a notice of the pendency of the proceedings to be recorded in the office of the probate court in each county in which any real property described in the complaint is located.

(b) The notice shall contain:

(1) the title of the action and the probate court, docket number if available, and date of filing of the complaint;

(2) a legal description of the real property sought to be taken as described in the complaint; and

(3) the name of each plaintiff and each defendant designated in the complaint.

(c) The notice shall be filed for record and indexed in the same manner as a notice of lis pendens in other cases.

(d) If after the filing of a notice the complaint in the action is amended to enlarge the quantity of, or nature of the interest in, the real property to be taken, or to add or substitute parties, the plaintiff shall cause a supplemental notice to be recorded in conformity with this section.

(e) Upon entry of a judgment of dismissal, any party may cause a notice of dismissal to be recorded in the same office.

(f) A recorded notice of the pendency of a condemnation action under this section constitutes notice to purchasers and encumbrancers of the described property to the same extent as like notices of pending litigation in other cases relating to real property.

#### § 501. Required Response.

The defendant may respond by answer but is not required to do so unless defendant challenges the right to condemn or questions or disputes the area to be acquired or remain. If a defendant claims no interest in the just compensation to be awarded he may file a disclaimer.

#### § 502. Answer.

(a) In addition to other matters required or permitted by law, a defendant may state in an answer:

(1) the nature and extent of the interest claimed by him in the property sought to be taken; and

(2) the nature of and basis for any preliminary objections.

(b) The preliminary objections may include any available ground for objecting to the maintenance of the action, including the grounds that:

(1) the plaintiff is not lawfully entitled to take the defendant's property for the purpose described in the complaint;

(2) a mandatory condition precedent to the commencement or maintenance of the action has not been satisfied; and

(3) the probate court lacks jurisdiction of the defendant or of the subject matter, or is not the proper venue, or the complaint or

any other procedural aspect of the action is defective, insufficient, or improper.

§ 503. Disclaimer.

(a) A disclaimer need not be in any particular form, shall be signed by the defendant or his attorney, and shall contain a statement that the defendant claims no interest in the property that is the subject of the action or in the compensation that may be awarded.

(b) a disclaimer may be filed at any time and supercedes any answer previously filed by him.

(c) Subject to subsection (d), a defendant who has filed a disclaimer has no right to notice of, or to participate in, any further proceedings, or to share in any award of compensation or damages, unless an amendment subsequent to the application is filed by the condemnor which involves an interest of the party who has filed the disclaimer, in which event, the party shall have notice of the amendment and the same rights as if no disclaimer had been filed.

(d) The probate court may implement the disclaimer by appropriate orders.

§ 504. Hearing on Preliminary Objections.

Preliminary objections shall be heard and determined by the probate court on the court's own motion, or on notice and motion by a party, before final determination of the amount of just compensation. The probate court may consolidate for hearing all preliminary objections asserted in separate actions pending in that court to take properties for the same use.

§ 505. Burden of Proof at Hearing on Objections.

(a) Except as provided in subsection (b), the plaintiff has the burden of proof on all issues of fact raised in connection with a preliminary objection.

(b) If in support of a preliminary objection a defendant alleges fraud, corruption, bad faith, or gross abuse of discretion on the part of the plaintiff or any of its officers, agents, or employees, the defendant has the burden of proving by clear and convincing evidence the facts relating to that particular allegation.

§ 506. Disposition of Defendant's Objections.

(a) If the probate court determines that a preliminary objection is meritorious, the court shall make an appropriate order including:

(1) dismissal of the action, in whole or in part, if the plaintiff is not authorized to take the property, or some part thereof, or the



acts or omissions constituting the basis for the objection will necessarily inflict irreparable injury upon the defendant;

(2) conditional dismissal, in whole or in part, unless, within a specified period, the plaintiff takes corrective or remedial action prescribed in the order, including, if appropriate, the adoption of a new or amended condemnation authorization; or

(3) any other disposition required by the circumstances.

(b) In addition to other requirements of an order sustaining a preliminary objection or determining that the failure or omission constituting the basis of the objection was reasonably excusable, the probate court in the interest of justice may require the plaintiff to pay to the defendant all or part of his litigation expenses incurred because of the plaintiff's failure or omission constituting the basis of the objection. An award of litigation expenses shall be included in the order if the probate court finds that the plaintiff acted or failed to act without justification.

§ 601. Motion for Withdrawal of Deposited Funds Before Judgment.

At any time after payment of the award and before entry of judgment, the defendant by motion may withdraw the amount of the condemnor's approved offer. The motion shall specify the applicant's property for which the deposit was made and request leave to withdraw such amount from the funds on deposit.

§ 602. Deposit at Interest.

Upon motion of a party at any time after a deposit has been made, the court shall direct that the money not withdrawn be invested in certificates of deposit of federal and state banks and savings and loan associations, or in treasury bills, notes, or obligations of the federal government or any agency thereof, subject to reasonable terms and conditions. Interest earned or other increments derived from the investment shall be allocated, credited, and disbursed between the parties pro rata, in relation to the final award.

§ 701. Application of Article.

Discovery and pretrial conferences in condemnation actions in the circuit court are governed by the Alabama Rules of Civil Procedure.

Nothing in this section shall be construed to enable any party to obtain a written valuation report of the other party.

§ 702. Effect of Article on Admissibility of Evidence.

This Article does not make admissible any evidence not otherwise admissible nor permit a witness to base an opinion on any matter not a legally proper basis for the opinion.

### § 901. Setting for Trial.

(a) To the extent practicable, actions under this Code shall be heard and tried in advance of other civil actions.

(b) The circuit court may require any severable nonjury issue to be tried separately in advance of the trial on the issue of the amount of compensation.

### § 902. Trial by Jury; Waiver.

(a) In the circuit court the amount of compensation and any additional issue for which the right to trial by jury is secured by the Constitution shall be determined by a jury only if a party entitled to participate in the trial of the issue expressly demands trial by jury. The circuit court shall determine all other issues without a jury.

(b) The number of jurors, method used for impanelling and selecting jurors, number and method for exercising challenges, form of oath to be administered, number of jurors required to return a verdict, and all other procedures relating to trial by jury, to the extent practicable, shall conform to the requirements applicable in civil actions under the Alabama Rules of Civil Procedure.

### § 903. Right to Open and Close; Order of Presentation of Evidence.

The plaintiff shall make the first opening statement, proceed first in the presentation of evidence on the issues of the amount of compensation, and make the final closing argument.

### § 904. Burden of Proof.

No party has the burden of proof on the issue of the amount of compensation.

### § 905. Separation of Issues of Compensation and Apportionment.

The circuit court or jury shall first determine the total compensation as between the plaintiff and all defendants claiming an interest in the property. The circuit court shall determine the apportionment of amount awarded in a subsequent proceeding. After the amount of compensation has been determined, the plaintiff may withdraw from further participation in the trial.

### § 906. Partial Taking.

If there is a partial taking, the valuation rule is the difference between the fair market value of the entire property before the taking and the fair market value of the remainder after the taking.

### § 1001. Compensation Standards.

An owner of property acquired by eminent domain is entitled to compensation determined under the standards prescribed in this Article.

§ 1002. Reduction of Compensation Award Because of Incidental Benefits From Taking.

The amount of compensation to which the owners and other parties interested therein are entitled must not be reduced or diminished because of any incidental benefits which may accrue to them or to their remaining lands in consequence of the uses to which the lands to be taken or in which the easement is to be acquired will be appropriated; provided, that in the condemnation of lands for ways and rights-of-way for public highways, water or sewer lines, the commissioners or jury may, in fixing the amount of compensation to be awarded the owner for lands taken for this use, take into consideration the value of the enhancement to the remaining lands of such owner that such highway, water or sewer lines may cause; and provided further, that in proceedings instituted by water conservancy districts and water management districts, benefits accruing to the landowner from an improvement may be considered and allowed as a setoff against the damages to be awarded, but benefits derived from improvements other than the improvement for which the land is condemned cannot be considered.

§ 1003. Fair Market Value Defined.

The fair market value as used in this Code shall be defined as the price the property would bring when offered for sale by a willing seller who is not forced to sell and which is sought by a willing buyer who is not required to buy, after due consideration of all the elements affecting value.

§ 1004. Effect of Condemnation Action on Value.

(a) The fair market value of the property does not include an increase or decrease in value before the date of valuation that is caused by (1) the proposed improvement or project for which the property is taken; (2) the reasonable likelihood that the property would be acquired for that improvement or project; or (3) the condemnation action in which the property is taken.

(b) If the second taking was within contemplation of the condemnor at the time of the first taking the valuation of the second taking shall exclude any enhancement value arising out of or created by the first taking.

(c) Notwithstanding subsection (a) and (b), a decrease in value before the date of valuation which is caused by physical deterioration of the property within the reasonable control of the property owner, and by his unjustified neglect, may be considered in determining fair market value.

§ 1005. Highest and Best Use, A Jury Issue.

Anything in this Article to the contrary notwithstanding, the highest and best use of the property sought to be acquired shall be determined by a jury, if a trial by jury has been demanded.

§ 1101. Scope of Article

(a) Actions under this Code are governed by the rules of evidence applicable in other civil actions and as supplemented by this Article.

(b) This Article does not create or diminish any right to compensation or damages, and does not affect the meaning of "just compensation" under the law of this State.

§ 1102. View of the Property Taken.

(a) Upon motion of a party or its own motion, the circuit court may direct the jury to be placed in charge of an officer of the court and taken personally to view the property sought to be taken. Upon like motion, if the case is tried before the circuit court without a jury, the judge presiding at the trial may view the property. The circuit court may prescribe additional terms and conditions consistent with this section.

(b) During a view of the property by the jury, the judge presiding at the trial shall be present and supervise the proceedings. The parties, their attorneys, engineers, and other representatives may be present during a view by the jury or judge.

(c) During a view, only the judge presiding at the trial or person designated by the circuit court may make a statement to the jury relating to the subject matter of the action, and any such statement must be transcribed as a part of the record.

(d) The physical characteristics of the property and of surrounding property, and any other matters observed during a view, may be considered by the trier of fact solely for the purpose of understanding and weighing the valuation evidence received at the trial, and do not constitute independent evidence on the issue of the amount of compensation.

§ 1103. Opinion Evidence Competent to Prove Value.

(a) Upon proper foundation, opinion evidence as to the value of property may be given in evidence only by one or more of the following persons:

(1) a witness qualified by knowledge, skill, experience, training, or education to express an opinion as to the value of the property;

(2) an owner of the property; or

(3) a shareholder, officer, or regular employee designated to testify on behalf of an owner of the property, if the owner is not a natural person.

(b) This section does not preclude the admissibility of other evidence explaining or enabling the trier of fact to understand and weigh any opinion testimony given under Subsection (a).

#### § 1104. Supporting Evidence.

For the purpose of supporting an opinion as to the value of property, evidence may be received relating but not limited to the following factors:

- (1) extent of loss of property and improvement;
- (2) present use of the property, and the highest and best use for which it is reasonably suitable and available in the reasonably foreseeable future;
- (3) extent of loss of a legal nonconforming use;
- (4) extent of damage to crops; and
- (5) existing zoning or other restrictions upon use, and the reasonable probability of a change in those restrictions.

#### § 1105. Evidence Relating to Remainder Value in Partial Taking.

For the purpose of supporting an opinion as to the value of a remainder after a partial taking, evidence may be received relating but not limited to the following factors:

- (1) extent of increase or decrease in the productivity and convenience of use of the remainder reasonably attributable to the taking;
- (2) extent of improvement in or impairment of access to the public highways from the remainder upon completion of the project;
- (3) extent of benefit or detriment caused by the project due to a change in grade within a right of way abutting the remainder;
- (4) extent of enhancement or damage as a consequence of the project;
- (5) extent of benefit or damage resulting from severance of land or improvements;
- (6) extent of benefit or damage resulting from the distance or proximity of the remainder, or improvements on the remainder, to the project in view of its character and probable use, and
- (7) cost of fencing not provided by the plaintiff and reasonably necessary to separate the land taken from the remainder.

#### § 1106. Matters Upon Which the Owner May Express Opinion Testimony.

The owner may consider any nonconjectural matters in forming his opinion as to the fair market value of his property.

### § 1107. Basis for Opinion as to Value.

As a basis for an opinion as to value, a valuation witness qualified under Section 1103 (a) may consider, *inter alia*:

(a) the price and other circumstances of any good faith sale of all or part of the property sought to be taken, whether the sale was entered into before or after the valuation date.

(b) the price and other terms and circumstances of any good faith sale of comparable property. A sale is comparable within the meaning of this section only if it was made within a reasonable time before or after the valuation date and the property is sufficiently similar in the relevant market, with respect to situation, location, size, usability, improvements and other characteristics, to warrant a reasonable belief that it is comparable to the property being valued. Any proposed comparable sale that fails to meet the foregoing standards shall not be admissible.

(c) the terms and circumstances of any lease made in good faith that included all or part of the property being valued or of comparable property whether the lease was made before or after the valuation date.

(d) the actual or reasonable net rental income attributable to the property when used for its highest and best use, capitalized at a fair and reasonable rate.

(e) the cost of reproducing or replacing existing improvements on the property sought to be taken which enhance its value for its highest and best use, less any depreciation resulting from physical deterioration or from functional or economic obsolescence.

(f) the nature, condition, and use of properties in the general vicinity of the property being valued.

### § 1108. Matter Upon Which Opinion May Not be Based.

Notwithstanding the provisions of Section 1103 to 1107(e), the following factors are not admissible as a basis for an opinion as to the value of property.

(1) the price or other terms and circumstances of an acquisition of comparable property, where that property was or could have been acquired in that transaction under the power of eminent domain;

(2) the price at which property was optioned, offered, mortgaged or listed for purchase, sale or lease;

(3) the assessed value of property for purposes of taxation;

(4) except as provided in Section 1104(5), the influence upon the value of the property being valued of an exercise of the police power or of other noncompensable damage.

§ 1201. Contents of Judgment.

The judgment shall:

(1) describe the property condemned and declare the right of the plaintiff to take it by eminent domain;

(2) recite the amount of compensation and damage, if any, and declare that title to the property will be transferred to the plaintiff after the plaintiff has paid to the defendant, or to the court for the benefit of the defendant, the amount awarded.

§ 1202. Interest on Compensation Awarded.

(a) Except as provided in subsection (b), the judgment shall include interest at a rate equal to the rate allowed to be charged on money judgments as set forth in Ala. Code § 8-8-10 as amended at the date of the final order in the circuit court upon the unpaid portion of the compensation awarded. The interest shall commence to accrue upon the date of valuation and be calculated to the earlier of the date of deposits into probate court or date of entry of the judgment.

(b) Except as provided by § 602 the judgment may not include any interest upon the amount represented by funds deposited into probate court by the plaintiff for the period after the date of deposit.

§ 1203. Crediting Amounts Paid or Withdrawn from Deposited Funds.

(a) The judgment shall credit against the total amount awarded to the defendant any payments made before the date of entry of the judgment by plaintiff to the defendant as compensation for the property taken, plus any funds which the defendant withdrew from money deposited by the plaintiff.

(b) If the amount to be credited against the award under subsection (a) exceeds the total amount awarded, the judgment shall require the defendant to pay the excess to the plaintiff or other person entitled thereto.

§ 1204. Performance of Work to Reduce Amount of Award.

(a) If the probate court finds that the plaintiff and defendant have entered into an a written agreement under which the plaintiff has completed, or has undertaken to perform, described work, or if a pretrial order required the performance of work by the plaintiff, the court may include in the judgment a determination that the plaintiff has satisfied, or may satisfy, the judgment in whole or in part by performing the work as described.

(b) The provisions included in the judgment under subsection (a) shall describe or incorporate the terms and conditions of the

agreement or pretrial order, and to the extend the agreement or order fails to provide therefor shall include requirements relating to:

(1) the location and nature of the work and the time for its commencement and completion; and

(2) the amount of compensation awarded which is or will be satisfied by performance of the work by the plaintiff, rather than by payment in money together with any proper adjustments in the amount of interest allowable on the amount awarded.

(c) For good cause, the probate court may require the plaintiff to deposit funds with the court, or to execute and file with the clerk a bond with sureties approved by the court, in an amount not less than the estimated cost of the work, to guarantee its faithful and timely performance; and the court may impose other reasonable terms and conditions including a reservation of continuing jurisdiction to assure that the work will be properly performed in accordance with the judgment.

#### § 1205. Payment of Judgment by Plaintiff.

(a) Within the time prescribed by §1621, the plaintiff shall pay the full amount required by the judgment after crediting all amounts withdrawn by the defendant from funds on deposit. The court for good for good cause may extend the time within which payment must be made for an additional period not exceeding 30 additional days.

(b) Payment may be made by the plaintiff by paying money personally to the defendant, or to the legal representative of the defendant, taking a receipt therefor and filing a copy with the court; or by depositing the amount of the award with the probate court for the defendant. By making a deposit under this section the plaintiff does not waive its right to review.

(c) Within 30 days after a deposit of the award under subsection (b), the court shall give written notice by first class mail to each defendant whose address is known and for whom a disclaimer is not on file and who has not receive personal payment in full.

(d) Before final distribution of the condemnation award, the tax collector shall file a disclaimer or an itemized statement of any taxes claimed to be due which shall be deducted from the award and paid to the tax collector before distribution to the owners, unless the taxes claimed are disputed, in which event, all taxes disputed must be promptly determined by the circuit court.

#### § 1206. Effect of Failure to Pay Judgment.

(a) If the plaintiff fails to make full payment of the judgment, or of the full amount awarded for any separate item or parcel of



property described therein, within the time allowed under Section 1205, the defendant may treat the failure to make payment as an abandonment of the condemnation action with respect to the property for which payment has not been made, and may move to vacate the judgment and for a dismissal under Section 1301.

(b) In determining questions arising under subsection (a), the circuit court may make appropriate orders to adjust the rights of the parties, including orders with respect to the possession and use of the property and the performance of any work thereon, and may award damages, interest, and costs to the defendant as justice requires.

#### § 1207. Payment After Judgment from Funds Deposited with Court.

After the entry of the judgment of condemnation, the defendant by motion may withdraw the amount of the condemnor's approved offer. The motion shall specify the applicant's property for which the deposit was made and request leave to withdraw such amount from the funds on deposit.

#### § 1301. Involuntary Dismissal.

On motion of the defendant, the court shall dismiss the action in whole or in part, as justice requires, if:

(1) upon sustaining a preliminary objection to the plaintiff's complaint, the court determines that a dismissal is required;

(2) the plaintiff has unjustifiably failed to exercise reasonable diligence in prosecuting the action;

(3) the plaintiff has failed to pay the full amount required by the judgment within the time allowed.

#### § 1302. Voluntary Dismissal.

The court may dismiss the action in whole or in part upon motion of the plaintiff at any time prior to payment of the judgment. In its order of dismissal, the court may impose any conditions that are just and equitable, including a requirement of restitution of property or money.

#### § 1303. Award of Litigation Expenses.

(a) The court shall award the defendant his litigation expenses, in addition to any other amounts authorized by law, if the action is wholly or partly dismissed for any reason.

(b) If the scope of the property to be taken is reduced as the result of (1) a partial dismissal, (2) a dismissal of one or more plaintiffs, or (3) a final judgment determining that the plaintiff cannot take part of the property originally sought to be taken, the court

shall award the defendant the portion of his litigation expenses attributable to the property within the scope of the reduction.

(c) Costs and litigation expenses authorized by this section may be claimed, taxed, and awarded under the same procedures that apply to costs in other civil actions.

#### § 1304. Restitution of Property and Damages.

If the action is dismissed for any reason, and the defendant has vacated the property under an order of possession or in reasonable contemplation of its taking by the plaintiff, the circuit court, upon demand of the defendant, shall order the plaintiff to (1) deliver possession of the property to the defendant or other person entitled thereto, and (2) pay damages to the defendant as justice requires, including damages for any injury to or impairment of the value of the property not within the reasonable control of the defendant.

#### § 1501. Arbitration of Compensation Authorized.

(a) A condemnor and a condemnee or two or more condemnees may enter into and comply with the terms of an agreement in conformity with this Article for the arbitration of any issue relating to the amount or the apportionment of compensation for the taking of property.

(b) An agreement to arbitrate does not constitute and shall not be construed as a waiver of or excuse for noncompliance with any requirement of Article II or III relating to the acquisition of property except to the extent expressly provided in the agreement.

#### § 1502. Enforceability of Agreement.

Except as specifically provides in this Article, an agreement to arbitrate under Section 1501 has the same effect, and an arbitration thereunder may be conducted, and the award may be judicially confirmed, in conformity with the same procedures, as in other arbitrations under the law of this State. To the extent that this Article and any agreement in conformity with it are inconsistent with any other law, this Article prevails.

#### § 1503. Timing of Arbitration.

An arbitration agreement under this Article may be made and carried into effect either before or after a condemnation action has been commenced. The agreement does not waive or restrict the right to commence and prosecute a condemnation action, including the taking of possession before judgment, except to the extent expressly provided in the agreement.

#### § 1504. Effect of Pending Condemnation Action.

If a condemnation action has been commenced and is pending between the parties to an arbitration agreement under this Article:

(1) a petition, motion, or other proceeding thereafter initiated in connection with the arbitration shall be filed in and determined by the court in the condemnation action;

(2) the court in the condemnation action may stay the determination of an issue of compensation in the action until arbitration pursuant to the agreement has been concluded; and

(3) the total or apportioned amounts of compensation as determined by the arbitration award and confirmed by the court shall be included in the judgment of condemnation as the amount of compensation for the property.

#### § 1505. Absence of Concurrent Condemnation Action.

In the absence of a pending condemnation action relating to the property, a petition, motion, or other proceeding initiated in connection with arbitration pursuant to an agreement under this Article shall be filed in and determined by a court that would have both jurisdiction and proper venue of the condemnation action if it had been commenced immediately prior thereto. Unless the agreement for arbitration otherwise provides, the total or apportioned amounts of compensation as determined by the arbitration award and confirmed by the court shall be entered as a judgment with the same effect and subject to the same terms and conditions as a judgment of condemnation of the property.

#### § 1506. Arbitration Procedure.

Unless the arbitration agreement provides otherwise, the conduct of the arbitration shall be subject to the following rules;

(1) The locale for the arbitration is the county in which the subject property, or the major portion of that property, is located.

(2) The law of this State relating to the criteria for ascertaining just compensation and damages, and the elements thereof, shall be applied.

(3) The arbitration tribunal shall be the judge of the relevancy and materiality of the evidence offered, and conformity to the legal rules of evidence shall not be required.

(4) The amount of compensation determined by the arbitration award must be within the range of the evidence presented by the parties.

(5) The condemnor shall pay the compensation of and all expenses and fees incurred by the arbitrators.

§ 1507. Abandonment of Acquisition.

(a) Subject to the requirements of subsection (b), an arbitration under this Article may specify the terms and conditions, if any, under which the condemnor may abandon acquisition of the property.

(b) Unless the arbitration agreement expressly waives the property owner's right to reimbursement, in the event of abandonment of acquisition after an arbitration agreement has been entered into, he is entitled to recover from the condemnor:

(1) the same litigation expenses that would be recoverable upon dismissal of an action for the acquisition of the property; and

(2) all other expenses, not included in recoverable litigation expenses, reasonably and necessarily incurred by him in preparation for and in participating in the arbitration and in judicial proceedings in connection with the arbitration, including reasonable attorney, appraisal, and engineering fees.

(c) If abandonment of acquisition occurs after the rendition of an award in the arbitration proceedings, the amount of the expenses payable under this section shall be determined as an additional issue in the arbitration, unless the arbitration agreement expressly provides otherwise. If the abandonment occurs before the rendition of the award, the amount shall be determined by the court in a condemnation action, if one is commenced, or in any independent action brought against the condemnor.

§ 1508. Recordation of Agreement.

(a) An agreement under this Article, or a memorandum summarizing its terms and describing the subject property, after being executed and acknowledged by the parties, may be recorded, or rerecorded, in the same manner and with the same effect as a conveyance of real property.

(b) The record of the agreement or summary of agreement ceases to be notice to any person for any purpose after two years following the date of recordation or rerecordation under subsection (a).

§ 1601. Application to Probate Court for Order of Condemnation; Bond or Security and Affidavit Not Required of State or Counties.

The State of Alabama, or any county, municipality, the University of Alabama, Auburn University, the University of Montevallo or any corporation organized under the laws of this state, or any person or association of persons, proposing to take lands, or to acquire an interest or easement therein, for any uses for which private property may be taken, may, if there be no other mode of proceeding prescribed by law, apply to the probate court of the county in which

such lands, or a material portion thereof, may be situate, for an order of condemnation thereof to such uses. The state or any county may institute and maintain the proceedings herein authorized, in its own name, without giving bond or security or causing affidavit to be made, though the same may be required if the action were between private citizens. The written direction of the Governor to the attorney of record if a sufficient authority for bringing the suit.

§ 1602. Acquisition of Lands, Etc., for State Prison System.

The Governor may cause proceedings to be instituted in the name of the State of Alabama for the acquirement by condemnation of any lands, rights-of-way or material needed for the use of the penitentiary, or the maintenance or operation of the prison system of the state, the purchase of which may be authorized by law. Such proceedings must be had in the probate court of the county in which such lands or other property, or a material part thereof, may be situated, and prosecuted in the name of the State of Alabama in accordance with the provisions of this Code providing for the condemnation of lands for the public uses so far as the same may be applicable; except, that the application need not be certified, nor shall security for costs be required of the state.

§ 1603. Acquisition of Easements for Connecting Lines By Foreign Telegraph or Telephone Companies.

A telegraph or telephone company, incorporated under the laws of another state, proposing to extend connecting lines into this state, may acquire an easement for the uses and purposes of such connecting lines and may pursue the mode of proceeding prescribed in this chapter.

§ 1604. Acquisition of Easements for Crossing by Railroads, Etc.

Any corporation, person or association of persons owning a railroad or street railroad in this state and proposing to cross or intersect the line of another railroad or street railroad may acquire an easement for such purpose and to that end may pursue the mode of proceeding prescribed in this chapter.

§ 1605. Acquisition of Lands, Etc., for Viaducts and Subways by Railroad Companies, Etc., Within Municipalities.

Railroad companies and street railway companies may jointly or severally construct viaducts and subways in any municipality in this state by and with the consent of the municipality in which such viaduct or subway is to be constructed, and, to that end, such railroad companies and streets railway companies may condemn all necessary property, lands and interest and easements therein, including consequential damages to any property thereby injured or to be injured, as well as any property taken or destroyed or to be taken or destroyed.

Such condemnation proceedings may be had as provided by the general laws of this state governing the taking of lands or acquiring of interests therein for the uses for which private property may be taken, injured or destroyed.

§ 1606. Guardian Ad Litem for Infants or Incompetents.

If the owner of the lands or other party interested therein is an infant or is of unsound mind, the probate court, on the day appointed for the hearing, must appoint a guardian ad litem to represent him, and the guardian so appointed must file a written acceptance of the appointment, must appear and protect the rights and interests of such infant or person of unsound mind, and, if he deems it necessary, may employ counsel to assist him. The compensation of such guardian and of his counsel must be ascertained by the probate court and taxed as costs of the proceedings.

§ 1607. Allegations, Evidence, Etc., to be Considered; Entry of Decree Granting or Refusing Complaint.

The probate court shall conduct a hearing within 30 days after the filing of the complaint at which, on the day appointed, or any other day to which the hearing may be continued, the probate court must hear the allegations of the complaint, any objections which may be filed to be granting thereof and any legal evidence touching the same and shall, within 10 days after such hearing, make an order granting or refusing the complaint.

§ 1608. Hearing to be Conducted as in Civil Cases.

The hearing provided for in this chapter must in all respects be conducted and evidence taken as in civil cases at law, except as otherwise provided in this Code.

§ 1609. Appearance of Parties or Attorneys at Hearings, Trials, Etc.

Any person interested in the proceeding may be present in person or by attorney at any of the proceedings or trials provided for in this chapter.

§ 1610 Commissioners—Appointment; Qualifications; Certificate; Vacancies.

If the complaint be granted, in whole or in part, within 10 days after the complaint is granted, the judge of probate must appoint three citizens of the county in which the lands sought to be condemned are situated, who shall possess the qualification of jurors, who shall be disinterested and who shall file a certificate along with their award that neither of them had ever been consulted, advised with or approached by any person in reference to the value of the

lands or the proceedings to condemn the same prior to the assessment of damages and that they knew nothing of the same prior to their appointment. The judge of probate may fill any vacancy occasioned by death, failure to act or any disqualification of any such commissioners from interest, prior knowledge of the subject matter or being consulted with, advised with or approached in reference to the condemnation of such lands prior to appointment or assessment of the damages.

§ 1611. Same—Service of Notice of Appointment.

When the probate court shall have appointed the commissioners as provided in this chapter, it shall immediately issue notice of the appointment to the commissioners.

§ 1612. Same—Assignment of Damages and Compensation.

The commissioners thus appointed, or a majority of them, shall assess separately the damages and compensation to which the several owners and other parties interested in each of the several tracts of land are entitled, and they shall be sworn as jurors are sworn. The commissioners may view the lands to be subjected and must hold a hearing after a notice to all parties to receive all legal evidence offered by any party touching the amount of damages the owners of the lands and other parties interested therein will sustain and the amount of compensation they are entitled to receive.

§ 1613. Commissioners to Report Assessment; Issuance of Order of Condemnation Upon Deposit in Court or Payment of Damages, Etc., Assessed.

The commissioners must, within 20 days from their appointment, make a report in writing to the probate court stating the amount of damages and compensation ascertained and assessed by them for the owners of each tract of land, or persons injured and other parties interested therein, and thereupon, within 7 days, the probate court must issue an order that the report be recorded and the property be condemned upon payment or deposit into the probate court of the damages and compensation so assessed. A notice of entry of said order and the amount of the award shall immediately be mailed by 1st class mail to each party whose address is known, together with a notice of the right to appeal therefrom to the circuit court within 30 days from the date of said order.

§ 1614. Appeal From Order of Condemnation.

Any of the parties may appeal from the order of condemnation of the circuit court of the county within 30 days from the making of the order of condemnation by filing in the probate court rendering that judgment a written notice of appeal, a copy of which shall be

served on the opposite party or his attorney, and on such appeal, the trial shall be de novo, and it shall be necessary to send up the proceedings only as to the parties appearing or against whom an appeal is taken.

§ 1615. Judgment Not Suspended by Appeal if Damages Paid Into Probate Court and Bond Given.

No appeal shall suspend the judgment or deprive the applicant of the right of entry, provided the amount of the damages assessed for the parties who appeal or against whom an appeal is taken shall have been paid into probate court in money and a bond shall have been given in double the amount of such damage, with good and sufficient surety, to pay such damages as the property owners may sustain. Said amount of damages may be paid into probate court and said bond in double the amount of such damage, with good and sufficient surety, may be given at the time of taking the appeal or at any time thereafter that the applicant may desire the right of entry pending the appeal.

§ 1616. Separate Bonds Required in Case of Joint Appeals.

In case more than one party appeals or appeal is taken against more than one, there shall be separate bonds given for each tract of land involved, as provided in the preceding section to each one so appealing or appealed against.

§ 1617. Appeal From Denial of Application; Assessment of Damages and Compensation by Jury Upon Appeal to Circuit Court.

If the probate court refuses to grant the application, the applicant shall have the right of appeal to the circuit court upon giving security for costs, to be approved by the judge of probate, and upon such appeal the trial shall be de novo. Upon any appeal taken to the circuit court under this section, if such circuit court determines that the application should be granted, it shall immediately proceed either to have the damages and compensation assessed as provided in Section 902 or grant the condemnor the right of entry upon deposit of the amount of its approved offer into circuit court together with a bond in double the amount as provided in Section 1615. In such latter event the valuation issue shall be determined as provided in Section 902 as may be set by the circuit court.

§ 1618. Order of Condemnation on Appeal.

Upon the payment of the damages so assessed to the owner or other party interested therein and the payment of costs of suit into circuit court, or upon the payment of the damages and costs of suit into circuit court, the circuit court shall make an order of condemnation in accordance with the application upon the trial in the circuit court to which the appeal is taken.



### § 1619. Appeal From Final Judgment of Circuit Court.

After entry of final judgment in the circuit court, any party may, within 42 days thereafter, upon giving bond or security for costs as in other cases, file a notice of appeal to the Court of Civil Appeals where the amount involved, exclusive of interest and costs, does not exceed \$10,000.00. Where the amount involved, exclusive of interest and costs, exceeds \$10,000.00, such appeal shall be to the supreme court.

### § 1620. Effect of Order of Condemnation; Right of Entry, Etc., Pending Appeal Upon Deposit Into Circuit Court of Damages and Compensation Assessed and Costs of Proceeding; Effect of Appeal Upon Condemnation Order.

The order of condemnation, upon the payment of the sum ascertained and assessed by the verdict of the circuit court, or the bond thereof in the circuit court for the defendant, shall vest in the applicant the property or property right proposed to be acquired for the uses and purposes stated in the application and for no other uses or purposes. But if an appeal shall be taken by any party, then the person, corporation or association seeking to acquire such property or property right, upon the deposit in the circuit court for the party whose land or interest therein is sought to be condemned of the amount of damages and compensation so assessed, together with the costs of the proceeding, shall be entitled to enter upon the lands so condemned and to survey, construct and operate on the same for the uses and purposes stated in the application, but such property or property right shall not vest absolutely in such person, corporation or association until the final determination of the cause and the payment or deposit in circuit court of such damages and compensation as shall then be adjudged.

### § 1621. Time For Payment of Damages, Etc., Assessed; Effect of Failure to Pay Damages.

The condemnor may pay the damages and compensation assessed at any time within 90 days after the assessment thereof, or, in case an appeal is taken, within 60 days after the appeal is determined, but if he fails to pay the same within such time, such assessment shall cease to be binding on the owner of the lands or other party interested therein, and the rights of the plaintiff thereunder shall cease to be binding and the complaint shall be dismissed, and, upon such dismissal, the plaintiff shall be liable to the owner or other party as provided in Art. 13 for all damages the latter may have sustained by the institution of such proceedings, including a reasonable attorney's fee for defending the same.

### § 1622. Distribution of Award Among Property Owners, Etc.—Filing of Claims by Owners or Parties; Determination of Claims by Probate Court.

Any one of the owners or parties alleged in the complaint to own or hold any claim, interest or title in the lands sought to be condemned may, after the granting of the application, file with the probate court his claim for his part or division of the award made by commissioners; and upon the filing of such claim and upon the payment by the plaintiff into probate court of such award, the probate court shall set down for hearing the claim so filed by such party and determine the same. Upon such determination, the probate court shall distribute the funds to each of the parties so entitled thereto in the sum and manner in which the facts disclosed upon the hearing show each of said parties to be so entitled.

§ 1623. Same—Proceedings When Claims Not Filed By Parties and Court Doubtful as to Proper Distribution; Assertion of Adverse Claim or Title Involving Determination of Title to Land.

The probate court may, in the event no such claims are filed by any of such parties and where the probate court is doubtful as to a proper division, require the parties in interest to propound their claims and to hear evidence upon the same in order that the probate court may determine to what part or proportion of said award each of said parties may be rightly entitled. No division or partition for distribution shall be made by the probate court under this section when any adverse claim or title is asserted by any one of the interested parties, which involves the determination of the title to land, and the procedure for partition or distribution under this section shall follow as near as may be the manner provided for the partition of property in Chapter 6 of Title 35 of the Code of Alabama; except, that no parties in interest shall be added over the objection of any party to those made defendants in the application to condemn, and the hearing shall be confined to such parties so named or added without objection; and when any claim is denied by any party in interest, which involves the determination of the title to land, the probate court shall transmit to the circuit court the said claims and denials filed in the probate court and also the amount of the commissioners' award, less the proper court costs arising from the filing of such claims and denials; and the circuit court shall proceed to determine the matter as provided by law.

§ 1624. Costs.

The costs of the complaint and proceedings thereunder, including the compensation of commissioners, must be adjudged and assessed against the plaintiff and its surety for costs for which execution may issue. The commissioner's fees in every case shall be set and determined by the probate judge and entered by separate order by the probate judge.

§ 1625. Probate Court Deemed Open At All Times.

The court of probate must be deemed always open for the filing and trial of all applications made under this Code.

§ 1701. Inconsistent Provisions in Other Laws Superseded.

Insofar as the provisions of this Act are inconsistent with the provisions of any other law, general or special, the provisions of this Act shall be controlling.

§ 1702. Severability.

If any clause, sentence, paragraph, section or part of the Act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have rendered.

§ 1703. Repealer.

The following acts and all other acts and parts of acts inconsistent with this Code are hereby repealed:

Sections 18-1-1 through 18-1-32, Code of Alabama.

§ 1704. Application.

(a) Articles I through V of this Code apply only to condemnation actions commenced on or after its effective date.

(b) Article I and Articles VI through XVI of this Code apply to the fullest extent practicable to pending condemnation actions commenced before its effective date with respect to issues on which a judgment has not been entered, and with respect to issues that are retried on or after its effective date pursuant to an order of a trial or appellate court.

(c) In any condemnation action in which an appeal or a motion to modify or vacate the verdict or judgment, or to grant a new trial, was pending on the effective date of this Code, the law applicable before the effective date of this Code governs the determination of the appeal or motion.

§ 1705. Effective Date.

The Code shall take effect at 12:01 a.m. on January 1, 1986.

Approved May 17, 1985

Time: 3:30 P.M.

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Act No. 85-549

S. 492—Senator Goodwin

AN ACT

To authorize the Highway Director, the State Treasurer and the Director of Finance to become a public corporation; to prescribe the powers of such corporation,

including the power to construct industrial access roads and bridges in the state and to finance such construction by the issuance from time to time of its bonds in an aggregate principal amount of up to \$25,000,000 at any time outstanding when the Governor shall determine that the issuance of its bonds is necessary to assure the availability of funds for payment of the cost of such roads and bridges; to provide that such bonds and the income therefrom shall be exempt from taxation and may be used to secure deposits of funds of the state and its instrumentalities and agencies and for investment of trust and other fiduciary funds; to provide that bonds issued by the corporation shall be limited obligations of the corporation and shall not create an obligation or debt of the state; to provide that bonds issued by the corporation may thereafter be refunded by the issuance of refunding bonds; to provide for the disposition of the proceeds of the sale of the bonds of such corporation; to appropriate and pledge, from the State 4 cents Gasoline, Motor Fuel, and Lubricating Oil Excise Taxes allocated to the state and not to the counties, funds necessary to pay the principal of and interest on bonds of such corporation; to authorize such corporation to pledge such funds for payment of the principal of and interest on its bonds; to provide that such principal and interest shall be payable solely from such funds, but that said bonds will nevertheless constitute negotiable instruments, subject to registration requirements; to provide that the State Treasurer shall be custodian of the funds of said corporation; to confer on said corporation the power of eminent domain; and to provide for the dissolution of such corporation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Definitions. Where used in this Act the following words and terms shall be given the following respective meanings unless the context hereof clearly indicates otherwise:

“Corporation” means the public corporation authorized to be created by this act.

“Board of Directors” means the board of directors of the corporation.

“Code” means the Code of Alabama 1975, as amended.

“Government Securities” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon).

“Industrial access roads and bridges” means the planning, design and construction of those roads and bridges on the Public Highway and Street System providing access to industrial sites to include necessary right-of-way and utility activities provided by state law.

“Legislature” means the Legislature of Alabama.

“Net Interest Income” means interest earned from an investment, net of that which represents a return of accrued interest, and the

amount required to offset the amortization of any premium, paid in connection with the purchase of such investment.

“Permitted Investments” means (i) Government Securities; (ii) bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies, to the extent that such obligations are secured by the full faith and credit of the United States: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Financing Bank; Federal Home Loan Banks; Federal Farm Credit Bank; Export-Import Bank of the United States; Federal Land Banks; or Farmers Home Administration, or any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof, the bonds, debentures, participation certificates or notes of which are unconditionally guaranteed by the United States of America; (iii) bonds, notes, pass through securities or other evidences of indebtedness of GNMA and participation certificates of FHLMC; (iv) full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least “AA” by Standard & Poor’s Corporation and at least Aa” by Moody’s Investors Service; (v) public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America; (vi) time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, provided that, to the extent such time deposits exceed available federal deposit insurance, such time deposits are fully secured by obligations described in clauses (i), (ii), (iii) and (v) above, which at all times have a market value (exclusive of accrued interest) at least equal to such bank time deposits so secured, including interest, and which meet the greater of 100% collateralization or the “AA” collateral levels established by Standard & Poor’s Corporation for structured financings, (vii) repurchase agreements for obligations of the type specified in clauses (i), (ii), (iii), and (v) above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value (exclusive of accrued interest) at least equal to the purchase price of such repurchase agreements and which are held by a depository satisfactory to the State Treasurer in such manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100% collateralization or the “AA” collateral levels established by Standard &

Poor's Corporation for structured financings; and (viii) uncollateralized investment agreements with, or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service.

"State" and "state" mean the State of Alabama.

**Section 2. Legislative Intent.** It is the intention of the Legislature by the passage of this act to authorize the incorporation of a public corporation for the following purposes: to issue bonds to assure the availability of funds for payment of the cost of constructing industrial access roads and bridges as shall from time to time be constructed; to construct industrial access roads and bridges through a corporation to be composed of the officials whose incorporation is hereby authorized; to vest such corporation with all powers, authorities, rights, privileges, and titles that may be necessary to enable it to accomplish such purpose, and to appropriate and pledge funds for the use of such corporation. All construction herein referred to shall be performed by or under the direction and supervision of the State Highway Department. The State Highway Department may assign, contract or delegate the work of construction under its general powers, subject to approval by the Governor. This act shall be liberally construed in conformity with the said purposes.

**Section 3. Authority to Incorporate.** The Highway Director, the State Treasurer and the Director of Finance may become a corporation, with the powers and authorities hereinafter provided, by proceeding according to the provisions of this act.

**Section 4. Proceeding to Incorporate.** To become a corporation, the Highway Director, the State Treasurer and the Director of Finance shall present to the Secretary of State of Alabama an application signed by them which shall set forth (a) the name, official designation and official residence of each of the applicants, together with a certified copy of the commission evidencing each applicant's right to office; (b) the date on which each applicant was inducted into office and the term of office of each of the applicants; (c) the name of the proposed corporation, which shall be Alabama Industrial Access Road and Bridge Corporation; (d) the location of the principal office of the proposed corporation, which shall be Montgomery, Alabama; and (e) any other matter relating to the incorporation which the applicants may choose to insert and which is not inconsistent with this act or the laws of the State of Alabama. The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the State of Alabama to take acknowledgements to deeds. The Secretary of State shall examine the application and, if he finds that it substantially complies with the

requirements of this section, he shall receive and file it and record it in an appropriate book of records in his office.

**Section 5. Certificate of Incorporation.** When the application has been made, file and recorded, as herein provided, the applicants shall constitute a public corporation under the name proposed in the application and the Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this act, under the Great Seal of the State, and shall record the same with the application. There shall be no fees paid to the Secretary of State for any work in connection with the incorporation or dissolution of the corporation so organized (which, for convenience, is herein referred to as "the corporation").

**Section 6. Members, Officers and Directors of the Corporation.** The applicants named in the application and their respective successors in office shall constitute the members of the corporation. The Highway Director shall be the president of the corporation, the State Treasurer shall be its vice-president, the Director of Finance shall be the secretary of the corporation, and the State Treasurer shall be the treasurer of the corporation and shall act as custodian of its funds. The members of the corporation shall constitute all the members of the board of directors of the corporation, and any two members of the said board of directors shall constitute a quorum for the transaction of business. Should any of said officials of the state die or should his term of office as Highway Director, State Treasurer, or Director of Finance, as the case may be, expire or should he resign therefrom, his successor in office shall take his place as a member, officer and director of the corporation. No member, officer or director of the corporation shall draw any salary, in addition to that now authorized by law, for any service he may render or any duty he may perform in connection with the corporation. All proceedings had and done by the board of directors shall be reduced to writing by the secretary of the corporation and recorded in a substantially bound book. Copies of such proceedings, when certified by the secretary of the corporation under the seal of the corporation, shall be received in all courts as prima facie evidence of the matters and things therein certified.

**Section 7. Corporate Powers.** The corporation shall have the following powers: (a) to have succession by its corporate name without time limit; (b) to sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties; (c) to have and to use a corporate seal and to alter the same at pleasure; (d) to construct, reconstruct, and relocate industrial access roads and bridges within the state or to cause the same to be constructed, reconstructed, and relocated; (e) to receive, take and hold by sale, gift, lease, devise or otherwise, real

and personal estate of every description, and to manage the same, (f) to acquire by purchase, gift, or the exercise of the power of eminent domain, or any other lawful means, and to transfer, convey or cause to be conveyed to the state, any real, personal or mixed property necessary or convenient in connection with the construction, reconstruction or relocation of industrial access roads and bridges in the state; (g) to exercise the right of eminent domain as freely and completely as, and in the same manner as, the state is empowered to exercise such right; (h) to borrow money and issue its bonds in evidence thereof subject to the provisions of Section 8 of this act; (i) as security for payment of the principal of and the interest on its bonds, to pledge any funds or revenues from which its bonds may be made payable, including the proceeds of the appropriations and pledges herein provided for; (j) to appoint and employ such attorneys, accountants, financial advisors, underwriters, trustees, depositories, registrars and other advisors, agents and independent contractors as the business of the corporation may require; (k) to enter into contracts with counties, the State Highway Department or other agency performing any of the functions thereof, road district authorities, private persons, firms, or corporations, the federal emergency administrator of public works and any other branch of the federal government, in furtherance of its public purposes and objects, either relative to work done or to be done; and (l) to turn over to the State Highway Department any and all funds of the corporation as from time to time may be necessary or convenient for the most economical construction of such industrial access roads and bridges or otherwise for carrying out the business of the corporation.

**Section 8.** Bonds of the Corporation. The bonds of the corporation shall be signed by its president and attested by its secretary and the seal of the corporation shall be affixed thereto or a facsimile thereof printed or otherwise reproduced thereon. The signatures of both the president and the secretary on any bonds may be facsimile signatures if the board of directors, in its proceedings with respect to issuance of such bonds, provides for manual authentication thereof (or manual execution of certificates of registration thereon) by a trustee, registrar or paying agent or by named individuals who are employees of the state assigned to the Finance Department or the State Treasurer's office. Any bonds of the corporation may be executed and delivered by it at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall bear such rate or rates of interest payable and evidenced in such manner, may contain provisions for redemption prior to maturity for refunding at or before maturity with refunding bonds of the corporation or of another governmental entity or public corporation of the state and for defeasance of any unmatured refunded bonds through the use of any such refunding bonds, and may contain such other



provisions not inconsistent herewith, all as may be provided by the resolution of the board of directors under which such bonds are authorized to be issued; provided, that no bond of the corporation shall have a specified maturity date later than ten years after its date. Bonds of the corporation may be sold from time to time in one or several series and pursuant to a single bond resolution or separate bond resolutions, all as the board of directors may deem advantageous; provided, that the aggregate principal amount of bonds of the corporation at any one time outstanding shall not exceed Twenty-five Million Dollars (\$25,000,000.00), excluding refunding bonds, which shall not be considered in determining such limit; provided, further, that no bonds (other than refunding bonds) may be sold or issued by the corporation unless the Governor shall have first determined that the issuance of the bonds proposed to be issued will be necessary to assure the availability of funds for payment of the cost of industrial access roads and bridges that shall from time to time be constructed.

Obligations of the corporation may be sold at either public or private sale in such manner and at such price or prices and at such time or times as may be determined by the board of directors to be most advantageous; provided, that none of the obligations may be sold for a price less than 97 percent of par or face value. Subject to the provisions and limitations contained in this act, the corporation may from time to time sell and issue refunding bonds for the purpose of refunding any matured or unmatured bonds of the corporation then outstanding. Approval by the Governor of Alabama of the terms and conditions under which any bonds of the corporation may be issued shall be requisite to their validity. Such approval shall be entered on the minutes of the meetings of the board of directors at which the bonds are authorized, and shall be signed by the Governor. Such approval by the Governor may be (but is not required to be) shown on any such bonds by a facsimile of his signature printed or otherwise reproduced thereon when authorization thereof is contained in the said approval signed by him. The corporation may pay out of the proceeds from the sale of its bonds all expenses, including fees of attorneys and other charges, which said board of directors may deem necessary and advantageous in connection with the issuance of such bonds. Bonds issued by the corporation shall not be general obligations of the corporation but shall be payable solely out of the funds appropriated and pledged therefor in Section 10 hereof. As security for the payment of the principal of and interest on any bonds issued by it, the corporation is hereby authorized and empowered to pledge for payment of such principal and interest the funds that are appropriated and pledged in Section 10 hereof for payment of said principal and interest. All such pledges made by the corporation shall take precedence in the order of the adoption of the

resolution containing such pledges. All contracts made and all bonds issued by the corporation pursuant to the provisions of this act shall be solely and exclusively obligations of the corporation and shall not be an obligation or debt of any kind of the State of Alabama. Bonds issued by the corporation shall be construed to have all the qualities and incidents of negotiable instruments subject to the registration provisions pertaining to transfers. All bonds issued by the corporation and the income therefrom shall be exempt from all taxation in the State of Alabama. Any bonds issued by the corporation may be used by the holder thereof as security for any funds belonging to the state or to any instrumentality or agency of the state in any instance where security for such deposits may be required by law. Unless otherwise directed by the court having jurisdiction thereof, or by the document that is the source of authority, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest trust and other fiduciary funds in bonds of the corporation. Neither a public hearing nor consent by the State Department of Finance or any other department or agency shall be a prerequisite to the issuance of bonds by the corporation.

**Section 9. Proceeds of Bonds.** The proceeds of all bonds, other than refunding bonds, issued by the corporation, remaining after paying the expenses of their issuance, shall be turned into the treasury, shall be carried in a special industrial access road and bridge construction account, and shall be available to be drawn upon by the corporation, upon the approval of the State Highway Department and the Governor, but solely for the purpose of constructing, reconstructing and relocating industrial access roads and bridges and work incidental or related thereto, including the acquisition of property necessary therefor. Moneys on deposit in the industrial access road and bridge construction account shall be invested by the State Treasurer at the direction of the corporation in Permitted Investments which mature at such time or times as the corporation shall direct. Net interest income earned from the investment of bond proceeds deposited into the industrial access road and bridge construction account shall be deposited as received by the State Treasurer into the State Public Road and Bridge Fund to be used for state highway purposes.

The proceeds from the sale of any refunding bonds of the corporation remaining after paying the expenses of their issuance shall be used only for the purpose of refunding outstanding bonds of the corporation and of paying any premium that may be necessary to be paid in order to redeem or retire the bonds to be refunded. Bonds refunded prior to their maturity with the proceeds of refunding bonds shall be defeased if the corporation, in its proceedings regarding

issuance of the refunding bonds provides for and establishes a trust or escrow fund comprised of moneys or Government Securities, or both, sufficient to pay, when due, the entire principal of, premium, if any, and interest on the refunded bonds; provided, that such Government Securities shall not be subject to redemption prior to their maturities other than at the option of the holder thereof. Upon the establishment of such a trust or escrow fund, the refunded bonds shall no longer be deemed to be outstanding, shall no longer be secured by the funds pledged therefor in Section 10 of this act, shall no longer be obligations of the corporation and shall be secured solely by and payable from moneys and Government Securities deposited in such trust or escrow fund. All contracts of the corporation for the construction, reconstruction and relocation of industrial access roads and bridges, work incidental or related thereto, and the acquisition of property necessary therefor, shall be in writing, shall be subject to the rules and regulations and shall be let under the supervision of the State Highway Department, and shall be subject to approval by the Governor and by the State Highway Department. All work provided for any such contract shall be supervised by the State Highway Department. All persons engaged in the supervision or performance of any such work of construction, reconstruction or relocation that may be done by the corporation without the award of a contract therefor shall be employees of the State Highway Department. Any property acquired by the corporation by purchase, condemnation or otherwise shall be acquired in the name of the state or shall be forthwith conveyed to the state. All roads and bridges constructed by the corporation shall constitute part of the public highway and street system of the state.

There is hereby appropriated so much of the bond proceeds as may be necessary for the construction of industrial access roads and bridges in the state.

**Section 10.** Revenues of the Corporation. For the purpose of providing funds to enable the corporation to pay the principal of, premium, if any, and interest on any bonds issued by it under the provisions of this act, and to accomplish the purposes and objects of its creation, there hereby are irrevocably pledged to such purpose and appropriated so much as may be necessary for such purpose of the following: The State Highway Department's portion of the 4 cent per gallon excise tax levied on gasoline, motor fuel and lubricating oil under the provisions of Title 40, Chapter 17, Article 6, of the Code. All moneys hereby appropriated and pledged shall constitute a sinking fund for the purpose of paying the principal of, premium, if any, and the interest on bonds of the corporation.

**Section 11.** State Treasurer to Disburse Funds. Out of the revenues appropriated and pledged in Section 10 hereof, the State

Treasurer is authorized and directed to pay the principal of, premium, if any, and interest on the bonds issued by the corporation under the provision of this act, as such principal, premium, if any, and interest shall respectively mature, and he is further authorized and directed to set up and maintain appropriate records pertaining thereto.

**Section 12.** Dissolution of the Corporation. At any time when no bonds or the corporation are outstanding the corporation may be dissolved upon the filing with the Secretary of State of an application for dissolution, which shall be subscribed by each of the members of the corporation and which shall be sworn to by each such member before an officer authorized to take acknowledgements to deeds. Upon the filing of said application for dissolution, the corporation shall cease and any property owned by it at the time of its dissolution shall pass to the State of Alabama. The Secretary of State shall file and record the application for dissolution, in an appropriate book of record in his office, and shall make and issue, under the Great Seal of the state, a certificate that the corporation is dissolved, and shall record the said certificate with the application for dissolution.

**Section 13.** Severability Clause. In the event any section, sentence, clause or provision of this act shall be declared invalid by any court of competent jurisdiction, such action shall not affect the validity of the remaining sections, sentences, clauses, or provisions of this act, which shall continue effective.

**Section 14.** Effective Date. This act shall become effective upon its approval by the Governor or upon its otherwise becoming law.

Approved May 17, 1985

Time: 3:30 P.M.

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Act No. 85-550

H. 309—Reps. Hooper, Mikell,  
McKee, and Starr

### AN ACT

Relating to Montgomery County Commissioners; providing an expense allowance which shall be supplemental to any and all other compensation or mileage and payable from county funds; and to provide that this act shall be null and void under certain circumstance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each commissioner of the Montgomery County Commission shall be entitled to receive an expense allowance in the total sum of \$5,000.00 per annum. Such expense allowance shall be payable from the general funds of the county from which commissioners are

paid and shall be paid in twelve monthly equal installments. It is further provided, however, that in order to receive the allowance herein provided, each commissioner must make a written request each month to the county administrator, and must sign each month with the said administrator when he or she receives the expense allowance payment.

Provided, however, the provisions of this act shall be null and void if any general law is enacted after 1985 Regular Session of the Alabama Legislature which provides for additional compensation for members of the various county commissions, including the Montgomery County Commission.

**Section 2.** The expense allowance provided by Section 1 of this act shall be in addition to any and all other compensation and mileage provided by law.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-551

H. 851—Reps. Starkey, Goodwin,  
and Clark (D)

### AN ACT

Relating to Lauderdale County; to provide for an advisory referendum election as to the question of whether the qualified electors of Lauderdale County favor the Lauderdale County Commission having a full-time commission chairman; and to provide for notice of the election.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This bill relates to Lauderdale County. An advisory referendum shall be held to determine whether a majority of the qualified electors of Lauderdale County approve of the Lauderdale County Commission having a full-time commission chairman.

The election for such purpose shall be held on the same day as the next general, special, constitutional or local countywide election held after the passage of this act. Since time is of the essence, the notice of advertisement of this local act shall be and serve as notice

of the said advisory referendum election to be held at the time specified herein. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the Lauderdale County Commission having a full-time commission chairman Yes ( ) No ( ).”

The judge of probate of Lauderdale County shall certify the results of the election to the Secretary of State immediately after the returns have been certified.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-552

H. 952—Rep. Campbell

### AN ACT

Relating to the City of Anniston in Calhoun County; to amend further Section 3 of Act No. 592, S. 456, Regular Session 1953 (Acts 1953, p. 838), providing for a civil service system for the city, so as to provide further for exemptions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 3 of Act No. 592, S. 456, Regular Session 1953 (Acts 1953, p. 838), is hereby amended to read as follows:

**“Section 3.** The provisions of this act shall apply to all officers and employees in the service of the city or any board, agency or instrumentality thereof except: (a) elective officers; (b) members of appointive boards, commissions, and committees; (c) all employees of the city board of education engaged in the profession of teaching or in supervising teaching in the public schools; (d) attorneys, physicians, surgeons, nurses and dentists employed in their professional capacities; (e) the judge of any court; (f) independent contractors receiving their remuneration from public funds under contracts awarded by competitive bidding; (g) any person whose employment is subject to the approval of the United States government or any agency thereof; (h) the secretary of the chief executive officer of the city; (i) the following employees of the Anniston Museum of Natural History: director, assistant director for programs and marketing, museum business manager, curator of natural history, curator of exhibits, artist II, artist I, assistant preparator, exhibit fabricator, naturalist, registrar, public relations coordinator, museum building

and grounds supervisor, museum technician, museum horticulturist, museum display technician and preparator.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

Act No. 85-553

H. 962—Reps. Carter and Clark (D)

### AN ACT

Providing for a referendum election on the question of the method of selecting a license commissioner for Limestone County, Alabama, and prescribing procedure for electing such commissioners if the qualified electors of the county voting in such election are in favor of electing such commissioner.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Limestone County, Alabama, shall order and provide for a countywide referendum election to be held at the same time and in conjunction with the next schedule statewide constitutional referendum election to determine whether the county license commissioner shall hereafter be elected by the qualified electors of the county. On the ballot to be used at the election, the question shall be stated as follows:

Do you favor the election of a county license commissioner by the qualified electors of the county? Yes ( )      No ( )

The results of such election shall be certified by the judge of probate to the secretary of state, who shall make a permanent record thereof. If a majority of the qualified electors voting in such referendum election voted in the affirmative on such question, then, such license commissioner, as provided for in Act 84-804, H. 179 of the First Special Session of 1984, shall be elected at the general election in 1988 and every six years thereafter in the same manner as the county revenue commissioner is elected. Provided, however, that if a majority of the qualified electors voting in such referendum election voted in the negative on such question, then the aforementioned provisions of this section providing for the election of the county license commissioner shall be null and void and shall have no effect and such license commissioner shall continue to be appointed by the county commission as now provided by law.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:45 P.M.

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Act No. 85-554

H. 973—Rep. Venable

### AN ACT

Relating to Coosa County; authorizing the county commission to levy and collect a one percent sales tax paralleling the state sales tax provided for in Sections 40-23-1, 40-23-2, 40-23-3, and 40-23-4, Code of Alabama 1975, providing for the collection of such tax by the state department of revenue; providing for distribution and use of the proceeds; prescribing penalties and fixing punishment for violation of this act; and providing that the terms of this act shall not become effective unless approved by the electors of Coosa County at a referendum election held for such purposes; and providing for a second referendum on its continuation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply to Coosa County.

**Section 2.** All words, terms and phrases as defined in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, providing for the levy of a state sales tax shall, wherever used in this act, have the same meanings respectively ascribed to them in said sections, except where the context herein clearly indicates a different meaning. In addition, the following words, terms, and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“State sales tax statutes” means Section 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, which levy a certain retail sales tax, and include all statutes, including amendments to said sections, which expressly set forth any exemptions from the computation of the tax levied by said sections and all other statutes which expressly apply to, or purport to affect, the administration of said sections and the incidence and collection of the tax imposed therein;

“State sales tax” means the tax imposed by the state sales tax statutes;



“Month” means the calendar month;

“County” means Coosa County.

**Section 3.** The Coosa County Commission is hereby authorized to levy and impose a one percent sales or gross receipts tax upon the sales of all tangible personal property sold in Coosa County, Alabama.

There are exempted, however, from the provisions of this section and from the computation of the amount of the tax imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

**Section 4.** The sales taxes authorized to be levied in Section 3 of this act shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the months in which the tax accrues. All taxes levied in this act shall be paid to and collected by the state department of revenue at the same time and along with the collection of the state sales tax. On or prior to the due dates of the tax herein levied each person subject to such tax shall file with the state department of revenue a report or return in such form as may be prescribed by the department, setting forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all such sales and gross receipts of all such business transactions. Such report shall also include such other items of information pertinent to the said tax and the amount thereof as the state department of revenue may require. Any person subject to the tax levied may defer reporting credit sales until after their collection, and in the event such person so defers reporting them, such person shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the Coosa County Commission, or its designated agent, at reasonable times during business hours.

**Section 5.** Each person engaging or continuing within Coosa County in a business subject to the tax levied in Section 3 of this act, shall add to the sales price or admission fee and collect from the purchaser of the person paying the admission fee the amount due by the taxpayer on account of said sale or admission. It shall be unlawful for any person subject to the tax levied to fail or refuse to add on the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sale or admission price and collected from the purchaser, and it shall likewise be unlawful for any person

subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof.

**Section 6.** The tax authorized to be imposed by this act shall constitute a debt due Coosa County and may be collected as provided by law. The said tax, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said tax is due or who is required to collect said tax. All of the provisions of the revenue laws of this state which apply to the enforcement of liens for license taxes due to this state shall apply fully to the collection of the tax herein levied, and the state department of revenue, for the use and benefit of Coosa County shall collect such tax and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or the department has for collection of the state sales tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act; and the department shall pay such special counsel such fee as it deems necessary and proper from the proceeds of the tax collected by it for Coosa County.

**Section 7.** All provisions of the state sales tax statutes with respect to payment, assessment, and collection of the state sales tax, making of reports and keeping and preserving records with respect thereto, penalties for failure to pay the tax, the promulgation of the rules and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax authorized to be levied in Section 3 of this act shall apply to the county tax levied under this act. The state commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties and obligations with respect to the county tax levied under this act that are imposed on such commissioner and department, respectively, by the state tax statutes. All provisions of the state sales tax statutes that are made applicable by this act to the county tax levied under this act and to the administration and enforcement of this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 8.** The state department of revenue shall charge Coosa County for collecting the sale tax levied under this act such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the Coosa County Commission, but such charge shall not, in any event, exceed five percent of the total amount of the sale tax collected in said county under this act. Such

charge for collecting such sale tax may be deducted each month from the gross revenues from such sale tax before Coosa County for that month. The commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax is received by the department of revenue, and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder) the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Coosa County during the month immediately preceeding such certification. Provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Coosa County during each month, the commissioner may deduct from the tax collected in said month the charge due the department for the collection of the tax for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Coosa County in his official capacity in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. All revenues arising from the taxes herein authorized to be levied shall be used to finance the operation of government in Coosa County and shall be deposited in the general fund of the county. Distribution of such proceeds shall be made by the county governing body as they may deem appropriate.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** This act shall be effective and operative only if it shall have been approved by a majority of the qualified electors of Coosa County who vote thereon at a referendum election held for such purpose, to be held at the same time as the May 14, 1985, constitutional amendment election, or at such other time as the legislature may decide. The election shall be held and conducted as nearly as may be in the same manner as election amendments to the Constitution. Notice of the election shall be given by the judge of probate of Coosa County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law passed at the 1985 Regular Session of the Legislature which imposes a one percent sales tax for Coosa County the proceeds of which are to be used for the operation of county government?

Yes ( )      No ( ).”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect on June 1, 1985 and shall continue until December 31, 1986. If a majority of the votes cast are in the negative, the act shall have no legal effect. A second referendum shall be held on the continuation of such tax at the same time as the general election in November 1986. Said referendum shall be held and conducted as nearly as may be in the same manner as elections on amendments to the Constitution. Notice shall be given in the same manner as for the first election, except on the ballots to be used at the second referendum, the proposition to be voted on shall be stated substantially as follows:

“Do you favor continuing the county tax levied by local law passed at the 1985 Regular Session of the Legislature, the proceeds from which are used for the operation of county government?

Yes ( )      No ( ).”

If a majority of the votes cast by the qualified electors are in the affirmative, said tax shall continue and no further referendum shall be held. If a majority of the qualified electors vote in the negative, said tax shall become null and void on January 1, 1987.

The judge of probate of Coosa County shall certify the results of the elections to the Secretary of State and to the state revenue department immediately after the returns have been certified in each referendum.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-555

H. 1000—Rep. Campbell

### AN ACT

Relating to Calhoun County; to provide for the levying of additional sales tax paralleling the state sales tax provided for in Sections 40-23-1, 40-23-2, 40-23-3, and 40-23-4, Code of Alabama 1975, as amended, providing for the collection, distribution and use of the proceeds of such tax; and providing for the enforcement of this act by the state department of revenue; prescribing penalties and fixing punishment for violation of this act; and providing for an effective date and referendum.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply to Calhoun County.

**Section 2.** All words, terms, and phrases as defined in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, providing for the levy of a state sales tax shall, wherever

used in this act, have the same meanings respectively ascribed to them in said sections, except where the context herein clearly indicates a different meaning. In addition, the following words, terms, and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“State sales tax statutes” means Section 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, which levy a certain retail sales tax, and include all statutes, including amendments to said sections, which expressly set forth any exemptions from the computation of the tax levied by said sections and all other statutes which expressly apply to, or purport to affect, the administration of said sections and the incidence and collection of the tax imposed therein;

“State sales tax” means the tax imposed by the state sales tax statutes;

“Month” means the calendar month;

“County” means Calhoun County.

**Section 3.** Effective July 1, 1986, there is hereby levied and imposed in addition to all other taxes, including municipal gross receipts license taxes now imposed by law, a special county one cent (\$.01) privilege license tax paralleling the state sales tax, such privilege license tax to be determined by the application of rates against gross sales or gross receipts, as the case may be, and within specified areas.

There are exempted, however, from the provisions of this section and from the computation of the amount of the additional tax imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax. Provided, however, it is intended that the sales of machinery used in mining and manufacturing, automotive vehicles or truck trailers, semitrailers or house trailers and farm machinery as described by subsections (3) and (4) of Section 40-23-2 and Section 40-23-37, Code of Alabama 1975, shall be taxed at an amount of 1/4 of the one cent (\$.01) additional tax imposed by this act.

**Section 4.** The one cent (\$.01) sales tax authorized to be levied in Section 3 of this act shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. All taxes levied in this act shall be paid to and collected by the state department of revenue at the same time and along with the collection of the state sales tax. On or prior to the due dates of the tax herein levied each person subject to such tax shall file with the state department of revenue

a report or return in such form as may be prescribed by the department, setting forth, with respect to all sales and business transactions that are required to be used a measure of the tax levied, a correct statement of the gross proceeds of all such sales and gross receipts of all such business transactions. Such report shall also include such other items of information pertinent to the said tax and the amount thereof as the state department of revenue may require. Any person subject to the tax levied may defer reporting credit sales until after their collection, and in the event such person so defers reporting them, such person shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the Calhoun County Commission, or its designated agent, at reasonable times during business hours.

**Section 5.** Each person engaging or continuing within Calhoun County in a business subject to the tax levied in Section 3 of this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of sale or admission. It shall be unlawful for any person subject to the tax levied to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sale or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof.

**Section 6.** The tax imposed by this act shall constitute a debt due Calhoun County and may be collected as provided by law. The said tax, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said tax is due or who is required to collect said tax. All of the provisions of the revenue laws of this state which apply to the enforcement of liens for license tax due this state shall apply fully to the collection of the tax herein levied, and the state department of revenue, for the use and benefit of Calhoun County shall collect such tax and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or the department has for collection of the state sales tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act; and the department shall pay such special counsel such fees as it deems

necessary and proper from the proceeds of the tax collected by it for Calhoun County.

**Section 7.** All provisions of the state sales tax statutes with respect to payment, assessment, and collection of the state sales tax, making of reports and keeping and preserving records with respect thereto, penalties for failure to pay the tax, the promulgation of rules and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax levied in Section 3 of this act shall apply to the county tax levied under this act. The state commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties and obligations with respect to the county tax levied under this act that are imposed on such commissioner and department, respectively, by the state tax statutes. All provisions of the state sales tax statutes that are made applicable by this act to the county tax levied under this act and to the administration and enforcement of this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 8.** The state department of revenue shall charge Calhoun County for collecting the special county tax levied under this act such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the Calhoun County Commission, but such charge shall not, in any event, exceed ten percent of the total amount of the special county tax collected in said county under this act. Such charge for collecting such special tax may be deducted each month from the gross revenues from such special tax before certification of the amount of the proceeds thereof due Calhoun County for that month. The commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax is received by the department of revenue, and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder) the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Calhoun County during the month immediately preceding such certification. Provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Calhoun County during each month, the commissioner may deduct from the tax collected in said month the charge due the department for the collection of the tax for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Calhoun County in his official capacity in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use

of the county. He shall then deliver to the Calhoun County Commission the balance remaining.

**Section 9.** The balance remaining from the taxes herein authorized to be levied shall be distributed as follows: (a) Fifty percent (50%) shall be deposited in the general fund of Calhoun County; (b) Fifty thousand dollars (\$50,000) to each of the following municipalities: Anniston, Hobson City, Jacksonville, Ohatchee, Oxford, Piedmont, and Weaver; and (c) the balance remaining shall be distributed to the municipality where collected.

**Section 10.** The provisions of Section 1 through 9 shall become operative only if this act is approved by a majority of the qualified electors residing within the county gross receipts tax area, as hereinabove defined, voting at a referendum election held for such purpose. The election shall be held in the same manner as elections on amendments to the Constitution, to be held on the date of the general or primary election next succeeding the passage of this act. Notice of the election shall be given by the judge of probate of Calhoun County, which notice shall be published once a week for three successive weeks before the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law levying an additional one cent (\$.01) sales tax in your area? Yes ( ) No ( ).”

If a majority of the votes cast are in the affirmative, then the substantive provisions of this act shall become effective on the first day of the next month following the election. If a majority of the votes cast are in the negative, this act shall have no further force and effect. The judge or probate shall certify the results of the election to the state commissioner of revenue immediately after the returns have been made.

**Section 11.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 13.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.



Act No. 85-556

H. 1012—Reps. Starkey, Clark (D),  
and Goodwin

## AN ACT

Relating to Lauderdale County; making the office of the chairman of the county commission full time; providing for an advisory referendum election as to question of whether the qualified electors of Lauderdale County favor the Lauderdale County Commission having a full-time commission chairman and for notice of the referendum; providing for the election of such full-time chairman; providing for the qualifications, term of office, residency requirements, compensation, powers, duties and authority of such chairman; providing for the transfer of office from the incumbent chairman, who is the judge of probate, to the newly elected chairman and the relief of the incumbent for all responsibilities therefrom; and prescribing an effective date and the repeal of conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This bill relates to Lauderdale County. An advisory referendum shall be held to determine whether a majority of the qualified electors of Lauderdale County approve of the Lauderdale County Commission having a full-time commission chairman.

The election for such purpose shall be held on the same day as the next general, special, constitutional or local countywide election held after the passage of this act. Since time is of the essence, the notice of advertisement of this local act shall be and serve as notice of the said advisory referendum election to be held at the time specified herein. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the Lauderdale County Commission having a full-time commission chairman? Yes ( ) No ( ).”

The judge of probate of Lauderdale County shall certify the results of the election to the Secretary of State immediately after the returns have been certified. Thereafter the office of chairman of the Lauderdale County Commission shall be full time as herein provided. Such chairman shall devote full-time service to the duties and responsibilities of such office, and shall receive compensation for serving, as full-time chairman of the county commission, in accordance with the minimum allowable by state law. Any candidate or person elected to such office shall be a qualified elector and resident of Lauderdale County throughout the term of office.

**Section 2.** Upon approval by a majority of qualified electors at an advisory referendum, the first chairman shall be elected in the general election of 1986, then each four years thereafter. Each term of office shall be four years, and shall commence from the first

Monday after the second Tuesday in January 1987. Such election shall be conducted as provided by law.

**Section 3.** (a) After the first elected chairman has been sworn into office, the probate judge shall be relieved of any and all duties and liabilities as chairman the county commission and shall transfer all such duties, responsibilities, authority and powers, records, monies and supplies related to said chairmanship to the elected chairman. Such transfer shall not abrogate the rights of any party. The duties, responsibilities and powers shall be those provided by general and local laws, and as may be directed, from time to time by the county commission.

(b) The incumbent chairman shall continue to receive such compensation as required by law until the expiration of the present term of office after which no compensation shall be payable to the judge of probate for county commission services.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved May 17, 1985

Time: 3:45 P.M.

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Act No. 85-557

H. 1028—Rep. Burke

### AN ACT

Relating to DeKalb County; authorizing the county governing body to levy a tax on tobacco products.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county governing body of DeKalb County is hereby authorized and empowered to levy a tax on tobacco products sold within DeKalb County. The amount of the tax levied under this act shall not exceed eight cents per tobacco product.

**Section 2.** The governing body of DeKalb County is hereby authorized and empowered to promulgate and implement such rules

and regulations as they deem necessary to carry out the provisions of this act.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

Act No. 85-558

H. 1030—Rep. Browder

### AN ACT

Relating to Calhoun County; to provide at the May 14, 1985, general election the qualified electors of the county shall decide whether to keep its present three-member form of county commission or to adopt a different five-member form of county commission, beginning at the 1986 general election.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** At the May 14, 1985, statewide election the following two options shall be presented to the electors of Calhoun County on the ballot (VOTE FOR ONLY ONE OPTION):

Option (1) I favor keeping the present three-member county commission (one elected at-large to represent the northern district, one elected at-large to represent the southern district, and one chairman elected at-large, as constituted by Act 420, S. 387, Regular Session 1939 (Acts 1939, p. 252), as amended, without any changes.

Option (2) Effective at the general election of 1986 and every four years thereafter, the county commission of Calhoun County shall be elected for terms of office of four years each and shall be composed of five (5) members who shall qualify and be elected as follows: Three (3) council members shall be elected from and reside in each of the three respective existing legislative house of representative districts, and one (1) member shall be elected by the county at large, and (1) chairperson shall be elected by the county at large. Upon being so elected, the duties, powers, functions and responsibilities, equipment, furnishings, office and funds of the existing county commission shall be transferred to the newly constituted five (5) member commission. Those parts of Act 420, S. 387, Regular Session 1939 (Acts 1939, p. 252), as amended, and other laws or parts of laws which do not conflict with the provisions of this subsection of this act shall remain in full force and effect should Option (2) of this act become operative, and those parts of said act as amended and other laws or parts of laws in conflict herewith are superseded and repealed by Option (2) of this act, should Option (2) of this act become operative.

**Section 2.** If a majority of the electors of Calhoun County vote for Option (1) at the May 14, 1985, election, then the present county commission as constituted by said Act 420, S. 387, Regular Session 1939 (Acts 1939, p. 252), shall be retained. If a majority vote for Option (2), then Option (2) shall be adopted and become effective at the general election of 1986.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:45 P.M.

Act No. 85-559

H.J.R. 72—Reps. Drake, Smith, Johnson (Roy),  
Bowling, and Holley

### HOUSE JOINT RESOLUTION

REQUESTING THE ALABAMA CONGRESSIONAL DELEGATION TO ACCELERATE RESEARCH EFFORTS ON CONTROL OF FIRE ANTS; AND, TO URGE ALL STATES BORDERING ALABAMA TO JOIN IN SEEKING THE ASSISTANCE OF THEIR CONGRESSIONAL DELEGATIONS TO CONTROL AND ERADICATE THE FIRE ANT PROBLEM.

WHEREAS, fire ants have spread into the State of Alabama, and constitute a threat of economic disaster to farmers, raisers of livestock, and to human safety and life; and

WHEREAS, regulations of the Environmental Protection Agency severely handicap the ability of states to obtain the necessary chemicals and other means of controlling and eradicating the fire ant problem; and

WHEREAS, an increasing number of citizens in the state and throughout the Southern United States face economic ruin and danger to themselves and to their families if fire ants are not brought under control and eradicated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby urge

the Alabama Congressional Delegation to exert efforts to accelerate research efforts of the Environmental Protection Agency and other federal agencies concerning means of control and eradication of fire ants in Alabama and other affected states.

BE IT FURTHER RESOLVED, That the states adjoining Alabama that have a fire ant problem, and those states in the area which will have a fire ant problem if efforts are not accelerated to control and eradicate fire ants, are respectfully requested to urge their Congressional Delegations to join with the Alabama Congressional Delegation in accelerating federal efforts to develop the chemicals or other means necessary to suppress the fire ant problem, which poses a potential threat of economic ruin to a large area of the Southern region.

RESOLVED FURTHER, That a copy of this resolution be forwarded to each member of the Alabama Congressional Delegation, to the Congressional Delegations of those states adjoining Alabama, and to the U.S. Environmental Protection Agency.

Approved May 17, 1985

Time 3:45 P.M.

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Act No. 85-560

H.J.R. 81—Rep. Turner

### HOUSE JOINT RESOLUTION

COMMENDING THE UNIVERSITY OF SOUTH ALABAMA AND ITS ATHLETIC PROGRAM.

WHEREAS, The University of South Alabama Basketball Team, a member of the Sun Belt Conference, did defeat nationally ranked University of Alabama-Birmingham 80-68 in Mobile on Saturday, February 23; and

WHEREAS, The University of South Alabama Baseball Team did defeat the University of Alabama-Tuscaloosa Baseball Team 13-3 on Saturday, February 23rd in Mobile; and

WHEREAS, Terry Catledge, star basketball player for University of South Alabama Scored 31 points in the basketball game and became the first player in the Sun Belt Conference history to get over 900 rebounds in a career; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend the Athletic Program at the University of South Alabama and congratulate the Jaguars on their double victory, and

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the University of South Alabama and their Athletic Department to show our appreciation.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-561

H.J.R. 92—Rep. Dutton

### HOUSE JOINT RESOLUTION

NAMING THE ALABAMA ARMY NATIONAL GUARD ARMORY AT MOULTON, ALABAMA, THE "HERMAN L. BREWINGTON ARMORY."

WHEREAS, SFC Herman L. Brewington started his military career in the HOME GUARD and was a member of Det 1 Co C 115th Sig Bn when the unit first received federal recognition; and

WHEREAS, SFC Brewington served with distinction throughout his 40-year military career, greatly aiding his unit to maintain its strength and serving as a role model for younger soldiers beginning a career with the Guard; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of unselfish dedication and many contributions to his National Guard Unit, we hereby name and designate the Alabama Army National Guard Armory at Moulton, Alabama, the "Herman L. Brewington Armory."

BE IF FURTHER RESOLVED, That the proper authorities are directed to erect and maintain appropriate signs and markers so designating said Armory as the "Herman L. Brewington Armory."

RESOLVED FURTHER, That a copy of this resolution be forwarded to SFC Brewington as a memento of this honorary designation of the Legislature.

Approved May 17, 1985

Time: 3:45 P.M.

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Act No. 85-562

H.J.R. 94—Rep. Flowers

### HOUSE JOINT RESOLUTION

NAMING A PORTION OF HIGHWAY 223 IN PIKE COUNTY, ALABAMA, THE "JEFF SORRELL HIGHWAY."

WHEREAS, Mr. Jeff Sorrell was a native and lifelong resident of the Saco Community in Pike County, Alabama; and

WHEREAS, not only was Mr. Sorrell a prominent civic and community leader, but also was a substantial businessman with extensive cattle and timber holdings in that area of our State; and

WHEREAS, in recognition of Mr. Sorrell's numerous contributions to his community and to all of Pike County, it is entirely fitting and proper that his name be perpetuated in appropriate fashion and that his generosity be acknowledged through means of permanent honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That that portion of Highway 223 in Pike County, Alabama, between the communities of Saco and Sandfield, is hereby designated and shall forever be known as the "Jeff Sorrell Highway."

BE IT FURTHER RESOLVED, That the proper authorities are hereby authorized to erect and maintain appropriate signs and markers so designating said portion of Highway 223.

RESOLVED FURTHER, That the family of Mr. Jeff Sorrell shall receive a copy of this honorary designation of the Alabama Legislature.

Approved May 17, 1985

Time: 3:45 P.M.

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Act No. 85-563

H.J.R. 108—Rep. Dutton

### HOUSE JOINT RESOLUTION

NAMING A PORTION OF THE NEW FOUR-LANE ALABAMA HIGHWAY 24, THE "GORDON TERRY PARKWAY."

WHEREAS, Grand Ole Opry star, Gordon Terry, is a native of Caddo in Lawrence County, Alabama; and

WHEREAS, as a world renowned fiddle player, Gordon Terry has brought great honor to his profession and to the world of country music; and

WHEREAS, Mr. Terry, who for many years was with the Merle Haggard Band, currently is associated with the Mel Tillis group, and is regularly featured on the Grand Ole Opry and in appearances throughout the country; and

WHEREAS, in recognition of Mr. Terry's contributions to country music and outstanding achievement, it is entirely fitting and proper that his name be perpetuated in appropriate fashion and that his accomplishments be acknowledged through means of permanent honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate that portion of the new four-lane Alabama Highway 24, from the western limit of the City of Decatur to the western limit of Moulton, Alabama, as the "Gordon Terry Parkway."

BE IT FURTHER RESOLVED, That the proper authority is hereby authorized to erect and maintain appropriate signs and markers at both the extremities and at the mid-point of said highway portion, so designating the "Gordon Terry Parkway."

RESOLVED FURTHER, That a copy of this resolution be presented to Mr. Terry as a memento of this honorary designation of the Legislature.

Approved May 17, 1985

Time: 3:45 P.M.

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Act No. 85-564

H.J.R. 160—Reps. Gaston, Kvalheim,  
and Marietta

### HOUSE JOINT RESOLUTION

COMMENDING ALFRED F. DELCHAMPS, JR., 1984 MOBILIAN OF THE YEAR.

WHEREAS, It is with a sense of great pride that the Legislature of Alabama notes the selection of Mr. Alfred F. Delchamps, Jr., as "Mobilian of the Year for 1984"; and

WHEREAS, Mr. Delchamps is Chairman of the Board and Chief Executive Officer of Delchamps, Inc. and is a prominent and influential leader in the civic, social and religious life of Mobile, and

WHEREAS, among his numerous charitable contributions, he has served as chairman of Mobile's 1980 United Way Campaign, as chairman of Mobile United, as vice-chairman of Mobile Area Chamber of Commerce, and as a director of the American Red Cross; and

WHEREAS, Mr. Delchamps is currently Chairman of the Board of the Alabama State Council on the Arts and Humanities, vice-chairman of the Board of Trustees of Huntington College, and a



member of the Board of Trustees of Dauphin Way United Methodist Church; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily praise and commend Mr. Alfred F. Delchamps, Jr., for outstanding service to the Mobile area and congratulate him upon his selection as 1984 Mobilian of the Year.

BE IT FURTHER RESOLVED, That in expression of sincere gratitude and highest regard, a copy of this resolution shall be forwarded to Mr. Delchamps.

Approved May 17, 1985

Time: 3:45 P.M.

Act No. 85-565

H.J.R. 207—Rep. Reed

#### HOUSE JOINT RESOLUTION

EXPRESSING THE LEGISLATURE'S SUPPORT FOR THE CONTINUED FUNDING, BY THE FEDERAL GOVERNMENT, OF THE JOB CROPS PROGRAM.

WHEREAS, the Job Corps Program has served the vital national interest since its inception in 1965, by training and motivating more than two million disadvantaged youngsters to become productive and contributing members of our society; and

WHEREAS, the Tuskegee Job Corps Center has served in the highest national and state interest since its initial funding in 1980 and in subsequent operations; and

WHEREAS, the Tuskegee Job Corps Center has trained and motivated over 1352 youngsters from Alabama and the southeast region to seek and hold substantial and fulfilling jobs; and

WHEREAS, the Job Corps Program and the Tuskegee Job Corps Center are vital to our efforts towards job training and economic development in Alabama; and

WHEREAS, unemployment among young people is excessively high and a major crisis in employment exists among Alabama's youth; and

WHEREAS, the Alabama Legislature is acutely aware of and concerned about persistent high unemployment among disadvantaged and minority youth; and

WHEREAS, the Tuskegee Job Corps Program has made a substantial contribution to the State of Alabama by injecting more than \$12 million in salaries and expenditures into the Alabama economy; and

WHEREAS, the Tuskegee Job Corps Center has played a substantial role in alleviating unemployment among minority and disadvantaged youth in Alabama in a cost effective and humane manner; and

WHEREAS, the Job Corps Program and its Alabama component, the Tuskegee Job Corps Center, have served in the highest state, regional and national interest; and

WHEREAS, it has been proposed that funding for the Job Corps Program be discontinued, which would result in the loss of an opportunity to serve a substantial portion of our population between the ages of 16 and 21 by providing educational skill training, a vital service of much greater importance than the expenditures involved; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express support for the continued funding of the Job Corps Program by the federal government.

BE IT FURTHER RESOLVED, That the Alabama Legislature deems the continued operation of the Job Corps Program and the Tuskegee Job Corps Center vital to Alabama's efforts toward economic development and job training, and that all reasonable efforts should be made by the federal government to continue to fund this vital program.

Approved May 17, 1985

Time: 3:45 P.M.

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Act No. 85-566

H.J.R. 397—Rep. Martin

### HOUSE JOINT RESOLUTION

TO CREATE AND ESTABLISH A JOINT INTERIM COMMITTEE ON MUNICIPAL GOVERNMENT OF THE LEGISLATURE OF ALABAMA.

WHEREAS, under the provisions of the Act No. 84-711 an Interim Committee on Municipal Government of the Legislature of Alabama was organized with eight (8) members of the Legislature, four (4) from the House appointed by the Speaker and four (4) from

the Senate appointed by the Lieutenant Governor, and the Committee has submitted its report to the Legislature.

The Committee made numerous recommendations with respect to the organization, function, administration, financial framework, election procedures, forms of government procedures, and the impact of growth and urbanization on Alabama cities and towns; and

WHEREAS, the current Legislature has adopted several bills studied by the Committee and will no doubt adopt several additional pieces of legislation which the Interim Committee recommended and there is a need to continue and complete the study begun by the said Interim Committee inasmuch as many areas, which the Committee studied, require further study in depth and require positive recommendations to the Legislature from the Committee; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that in order to further suggest to the State Legislators additional sound, workable, financially feasible and economically possible methods of administration for Alabama's municipal governments, there is hereby organized an Interim Committee on Municipal Government of the Legislature of Alabama, to be composed of eight (8) members of the Legislature, four (4) members from the House to be appointed by the Speaker of the House, and four (4) members from the Senate to be appointed by the Lieutenant Governor. It shall be the duty and function of the Committee to analyze the present status of municipal government in Alabama and to make recommendations for legislation and constitutional revision which it considers necessary or desirable to enable the municipal governments of this State to more adequately meet and furnish the services and requirements of their citizens.

In reviewing the status and the laws of municipal governments in Alabama, the Committee shall consider and make studies of, but shall not limit its consideration, to the following items:

1. An assessment and study of the impact of reduced federal funds and the problems to municipalities created thereby; the study to suggest methods whereby municipalities may continue furnishing services notwithstanding the reduction of federal assistance; the study also to include a review of the block grant delivery system of federal assistance.

2. An assessment and analysis of the progress being made in Congress on anti-trust legislation designed to overcome the adverse decision of the U.S. Supreme Court in *Community Communications Company, Inc. v. City of Boulder, Colorado*.

3. A study and assessment of the problems faced by municipalities because of the mounting problems connected with sanitary sewage (waste water) disposal and a suggested avenue of meeting the tremendous expenses connected with such disposal; and a suggested funding mechanism to cover the cost of disposal.

4. A study of hazardous waste disposal and suggested solutions of the problems created by hazardous wastes.

5. A study of the infrastructure needs of Alabama towns and cities with particular emphasis on the study of road and street systems and their maintenance and repair.

6. A review with recommendations, as to how municipalities can best improve the delivery of services of all types to their citizens.

BE IT FURTHER RESOLVED, that the Committee shall not consume more than forty-five (45) working days in performing its functions and that its report be finished in time for presentation of a preliminary report during the first week of the 1986 Regular Session of the Alabama Legislature and a final report to be submitted during the 1986 Regular Session of the Alabama Legislature and that as far as practical that all meetings of the Committee shall be held in the State Capitol and be opened to the public. The Secretary of the Senate or Clerk of the House is hereby required to provide one (1) clerk, who shall be a competent stenographer, and the Committee is hereby empowered to employ such other personnel, including reporters and attorneys, as the Committee shall deem necessary. The Committee is hereby empowered to expend funds for the purpose of correspondence with prospective witnesses, in preparation of reports and in general expenses incident to the work of the Committee. Each member of the Committee shall be entitled to his regular legislative compensation, his per diem and travel expenses for each day he attends the meeting of the Committee which shall be paid out of the funds appropriated to the use of the Legislature on warrants drawn on the State Comptroller upon requisition signed by the Committee's Chairman. Provided, that members shall not receive additional legislative compensation or per diem when the Legislature is in session. The Chairman of the Committee shall certify the sums due to the clerk or other employees of the Committee. The total amount of funds expended by the Committee in carrying out the study shall not exceed the sum of Nine Thousand Five Hundred (\$9,500.00) Dollars. The Lieutenant Governor and the Speaker of the House shall jointly designate one of the members of the Committee as Chairman and one member to be Vice-Chairman. The Lieutenant Governor and the Speaker of the House shall be ex-officio members of the Committee and shall receive compensation at the rate paid out members for each day that they sit with the Committee in its work on the subjects and problems listed in this Resolution, or in

handling any other matters agreed upon by the Committee in line with the general purpose of the Committee.

Approved May 17, 1985

Time 3:45 P.M.

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Act No. 85-567

H. 421—Reps. Hooper, Starr, and McKee

AN ACT

Relating to Montgomery County; to amend Act No. 353 of the Legislature of Alabama Regular Session 1875 to provide that notice of all special sessions of the Montgomery County Commission must be given to a newspaper published in the City of Montgomery.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 8 of Act No. 353 of the Legislature of Alabama Regular Session 1875 is amended to read as follows:

“The Montgomery County Commission shall hold four sessions annually, viz: on the second Monday of February and April and November, and on the third Monday in August, and may hold a special session at any time upon the call of the Chairman or any two members of the Commission. Notice of special sessions shall be given to a newspaper published in the City of Montgomery.”

**Section 2.** All provisions of any act inconsistent with the provisions of this act are hereby expressly repealed to the extent of such inconsistency.

**Section 3.** If any section or part of any section of this act is declared to be unconstitutional, the remainder of the act shall not thereby be invalidated.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time 3:45 P.M.

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Act No. 85-568

H. 797—Rep. Hooper

AN ACT

Relating to Montgomery County; to amend Sections 1(11) and 7(2)(h) of Act No. 356, H. 1066, of the 1973 Regular Session (Acts 1973, p. 492), relating to the

Montgomery County Retirement System, so as to provide further for the schedule for making retirement allowance payments; and to provide that regular interest rates shall be as determined from time to time by the county commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1(11) of Act No. 356, H. 1066, of the 1973 Regular Session (Acts 1973, p. 492), is hereby amended to read as follows:

“Section 1. The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

“(1) ‘Retirement System’ shall mean the Retirement System for Employees of Montgomery County, as established pursuant to Act No. 833, H. 1100, approved September 12, 1969, and as amended by this act.

“(2) ‘County’ shall mean the County of Montgomery, Alabama.

“(3) ‘Commission’ shall mean the Montgomery County Commission, except that with respect to any period prior to October 1, 1970, it shall mean the Board of Revenue of the County.

“(4) ‘Medical Board’ shall mean the board of physicians provided for in Section 5, Subsection (5), of this act.

“(5) ‘Employee’ shall mean any regular and permanent officer or employee of the County, including any regular employee whose compensation is paid on a per diem basis, but excluding any elected official. In all cases of doubt, the Commission shall decide who is an employee within the meaning of this act.

“(6) ‘Member’ shall mean any person included in the membership of the Retirement System as provided in Section 3 of this act.

“(7) ‘Prior member’ shall mean a member who last became a member on or before the effective date of this act.

“(8) ‘New member’ shall mean a member who is not a prior member.

“(9) ‘Service’ shall mean service in the employment of and paid for by the County, including service in the armed forces of the United States rendered between periods of County service, and service as a temporary acting official of the County rendered during the period the regular elective officials served in the armed forces of the United States. Service while in the employment of the County and paid for partially by the City of Montgomery, Alabama, and the State of Alabama shall also be included if contributions on account of such service are made in accordance with Section 3, Subsection (5) of this act.

“(10) ‘Creditable service’ shall mean service for which credit is allowable as provided in Section 4, Subsection (4), of this act.

“(11) ‘Retirement allowance’ shall mean annual payments for life. All retirement allowances shall be payable in installments, the schedule of which being the same as the County employees are paid, said installments continuing to the last payment prior to death.

“(12) ‘Beneficiary’ shall mean any person in receipt of a retirement allowance or other benefit as provided by the Retirement System.

“(13) ‘Accumulated contributions’ shall mean the sum of all the amounts deducted from the compensation of a member and all the amounts deducted from his compensation while covered under the Pension Plan or the Pension System credited to his individual account in the Members’ Account, as provided in Section 7, Subsection (1), of this act.

“(14) ‘Earnable compensation’ shall mean the full rate of compensation that would be payable to a member if he worked the full working time, but shall not include any pay for overtime. In cases where compensation includes maintenance, the Commission shall fix the value of that part of compensation not paid in money.

“(15) ‘Average monthly compensation’ shall mean the average monthly earnable compensation of a member during the 12 consecutive months of his creditable service affording the highest such average.

“(16) ‘Normal retirement date’ shall mean the date on which a member first become eligible to retire on a service retirement allowance as provided by Section 6, Subsection (1) (a), of this act, or in the case of a member who retires or terminates service prior to his becoming so eligible, the date on which he would become eligible to retire on a service retirement allowance if he remained in service to such date.

“(17) ‘Regular interest’ shall mean interest at the rate established from time to time by the Commission as provided in Section 7, Subsection (2), Paragraph (h), of this act.

“(18) ‘Pension Plan’ shall mean the pension system for County employees established by Act No. 240, H. 627, approved July 29, 1947 (Local Acts of 1947, p. 165 as amended) as said system existed immediately prior to the operative date of the Retirement System.

“(19) ‘Pension System’ shall mean the Montgomery County Employees Retirement System established by Act No. 176, S. 272, approved September 28, 1959, Local Acts of 1959, p. 702, as said

system existed immediately prior to the operative date of the Retirement System.

“(20) ‘Operative date’ of the Retirement System shall mean December 1, 1969.

“(21) The masculine pronoun shall include the feminine pronoun.”

**Section 2.** Section 7(2)(h) of Act No. 356, H. 1066, of the 1973 Regular Session (Acts 1973, p. 492), is hereby amended to read as follows:

“Section 7. All of the assets of the Retirement System shall be credited, according to the purpose for which they are held, among two accounts, namely, the Members’ Account and the Accumulation Account.

“(1) Members’ Account

“(a) The Members’ Account shall be the account in which shall be held the contributions made under the Pension Plan or the Pension System by members who were covered thereunder prior to their date of membership and in which shall be accumulated the contributions deducted pursuant to this act from the compensation of members. The rate of contribution to the Retirement System by the members shall be four and one-half per centum (4-1/2%) of earnable compensation. No deduction shall be made from the compensation of a member who has completed thirty years of creditable service.

“(b) The Commission shall cause to be deducted from the compensation of each member on each and every payroll for each and every payroll such proportion of the member’s earnable compensation. In determining the amount earnable by a member in a payroll period, the Commission may consider the rate of compensation payable to such member on the first day of a payroll period as continuing throughout the payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one per centum of the compensation upon the basis of which such deduction is made.

“(c) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less said deduction and less other authorized



deductions shall be full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment.

“(d) The proper authority or officer responsible for making up the payroll shall certify to the Commission the amounts deducted on each and every payroll and each of such amounts shall be paid into the Members’ Account and credited to the individual account of the member from whose compensation the deduction was made. There shall be credited to the individual account of each member as of his date of membership the amount of his contributions, if any, transferred from the Pension Plan or the Pension System.

“(e) The accumulated contributions of a member, paid upon his death or withdrawn by him as provided in this act, shall be paid from the Members’ Account. Upon the retirement of a member, or if a survivor allowance becomes payable on his account, his accumulated contributions shall be transferred from the Members’ Account to the Accumulation Account.

#### “(2) Accumulation Account

“(a) The Accumulation Account shall be the account in which shall be accumulated all contributions made by the County to provide benefits under the Retirement System and from which shall be paid all retirement allowances and other benefits under the Retirement System, other than those payable from the Members’ Account. The amounts of assets transferred from the Pension Plan and the Pension System to the Retirement System pursuant to Section 9, Subsection (2), of this act which are in excess of the amounts credited to the Members’ Account as accumulated contributions shall be credited to the Accumulation Account.

#### “Regular Contributions by County

“(b) On account of each member there shall be paid annually into the Accumulation Account a certain percentage of the compensation of each member to be known as the ‘normal contribution’, and an additional percentage of his compensation to be known as the ‘accrued liability contribution’. The rates per centum of such contributions shall be fixed on the basis of the liabilities of the Retirement System as shown by actuarial valuation. Until the first valuation after the effective date of this act, the normal contribution shall be 4.75 per centum of the compensation of members and the accrued liability contribution shall be 6.25 per centum of the compensation of members.

“(c) The normal rate of contribution shall be determined after each actuarial valuation. During the period over which the accrued liability contributions are payable, the normal rate of contribution

shall be determined, on the basis of regular interest and the tables last adopted by the Commission, as the uniform and constant percentage of the compensation of the average new entrant member which, if contributed on the basis of the prospective compensation of such new entrant throughout his entire period of active service, would be sufficient to provide for the payment of any retirement allowance or other benefit payable on his account now provided by his own contributions. After the accrued liability contributions have ceased to be payable, the normal contribution rate shall be the rate per centum of the compensation of all members obtained by deducting from the total liabilities of the Accumulation Account the amount of the funds in hand standing to the credit of the Accumulation Account and dividing the remainder by one per centum of the present value of the prospective compensation of all members, as computed at regular interest on the basis of the tables last adopted by the Commission.

“(d) Immediately succeeding the first valuation after the effective date of this act, the accrued liability shall be computed by the actuary as the amount of the total liabilities of the Accumulation Account on account of all members and beneficiaries in excess of the funds in hand held on their account in the Accumulation Account which is not dischargeable by the aforesaid normal contributions to be made on account of such members during the remainder of their active service. The accrued liability contribution rate shall be determined by calculating the amount which, if paid each year during the remainder of the forty year period immediately following the operative date, would liquidate such accrued liability, and dividing such amount by one per centum of the total earnable compensation of all members. On the recommendation of the actuary, subject to the approval of the Commission, the accrued liability contribution rate may, from time to time, be adjusted to reflect any increase in the unfunded accrued liability arising from any amendment to this act or to reflect any change in the mortality and service tables or the rate of regular interest on which the actuarial valuations are based. In no event shall the accrued liability contribution rate as of any valuation date be less than the percentage of the earnable compensation of all members which is equal to regular interest for one year on the unfunded accrued liability as of such valuation date.

“(e) The total amount payable by the County in each year to the Accumulation Account shall not less than the sum of the rates per centum, known as the normal contribution rate and the accrued liability contribution rate, of the total compensation of all members during the preceding year; provided, however, that the aggregate payment shall be sufficient, when combined with the amount in the Account, to provide the part of the retirement allowances and other benefits provided by contributions made by the County payable to

members and beneficiaries during the year then current. The County's contributions to the Retirement System shall be paid from the County departmental fund from which each particular employee derives his payment of wages or salary.

"(f) The accrued liability contributions shall be discontinued as soon as the amount of the funds standing to the credit of the Accumulation Account shall equal the present value, as actuarially computed and approved by the Commission, of the total liabilities of the Account on account of all members and beneficiaries less the present value of the normal contributions to be received at the normal rate then in force on account of persons who are at that time members.

"Interest

"(g) All interest and dividends earned on the funds of the Retirement System shall be credited to the Accumulation Account.

"(h) Regular interest shall mean interest at the per centum rate or rates compounded annually as shall be determined from time to time at the discretion of the Commission.

"Benefits Payable from Accumulation Account

"(i) All retirement allowance to beneficiaries, and benefits in lieu thereof, shall be paid from the Accumulation Account.

"(3) Administration Expense

"The County shall pay all the administration expenses of the Retirement System, and all the expenses necessary in connection with the administration and operation of the Retirement System from the General Fund.

"(4) Appropriations

"On or before the first day of October of each year the Commission shall determine the amount of the appropriation necessary to pay the normal and accrued liability contributions to the Accumulation Account for the ensuing year, and the amount of appropriation required to cover the expenses necessary in connection with the administration and operation of the Retirement System, and such amounts shall be included in the Budget, in accordance with legal budget procedure."

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:45 P.M.

Act No. 85-569

H. 960—Reps. Adams and Clark (J)

AN ACT

Relating to Russell County and the fees for pistol permits; providing for the collection and the allocation of such fee; and repealing any conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any law to the contrary notwithstanding, the pistol permit fee in Russell County shall be a total of ten dollars (\$10.00) and shall be collected by the sheriff. Five dollars (\$5.00) of said fee shall be deposited in the general fund of the county, and five dollars (\$5.00) of said fee shall be deposited in a special fund or account of the county treasury and shall be used exclusively by the sheriff at his discretion for law enforcement purposes.

**Section 2.** All laws or parts of laws which relate to pistol permit fees for Russell County are hereby specifically repealed and all laws or parts of laws which are in conflict with this act are repealed.

**Section 3.** This shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:45 P.M.

Act No. 85-570

H. 980—Reps. Melton and Mitchell

AN ACT

Relating to Tuscaloosa County; providing for the salaries of the members of the civil service board in said county and providing for the county personnel director to act as custodian of records.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each member of the civil service board of Tuscaloosa County, Alabama, shall receive a salary of \$200.00 per month which shall be in lieu of any salaries heretofore provided by law for such members. Such salaries shall be paid out of the county treasury of Tuscaloosa County.

**Section 2.** The personnel director in and for Tuscaloosa County, Alabama, shall act as the custodian of the records of the board and will furnish such clerical assistance as may be requested of him by

the board, and is herein being designated to replace the clerk of the board of revenue in these duties and responsibilities, and shall receive for said services all compensation previously paid to the clerk of the board of revenue for said services from the date this act becomes effective. No civil service employee's salary will be reduced because of this act.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Approved May 17, 1985

Time: 3:45 P.M.

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Act No. 85-571

H. 1005—Rep. Melton

### AN ACT

Relating to Tuscaloosa County; amending Sections 1 and 2 of Act No. 936, H. 50, 1981 First Special Session (Acts 1981, p. 88), relating to the compensation and expense allowance for the sheriff of Tuscaloosa County; so as to further provide for an additional expense allowance and expiration date therefor and the sheriff's compensation in the next term of office for sheriff.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 and 2 of Act No. 936, H. 50, 1981 First Special Session (Acts 1981, p. 88) are hereby amended to read as follows:

"Section 1. The sheriff of Tuscaloosa County shall receive an additional expense allowance of \$10,000.00 per annum, payable in equal monthly installments. Said expense allowance shall be in addition to all other compensation, expense allowances or benefits granted to the sheriff.

"Section 2. Beginning with the next term of office, the expense allowance paid to the sheriff as provided in Section 1 shall be null and void. In lieu thereof the sheriff shall receive an additional compensation of \$10,000.00 per annum. Said compensation shall be in addition to all other compensation, expense allowances or benefits received."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:45 P.M.

Act No. 85-572

H. 1053—Rep. Warren

## AN ACT

Relating to Monroe County; authorizing the county commission to levy and collect a one percent sales tax paralleling the state sales tax provided for in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4, Code of Alabama 1975, providing for the collection of such tax by the state department of revenue; providing for distribution and use of the proceeds; prescribing penalties and fixing punishment for violation of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply to Monroe County.

**Section 2.** All words, terms and phrases as defined in Section 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, providing for the levy of a state sales tax shall, wherever used in this act, have the same meanings respectively ascribed to them in said sections, except where the context herein clearly indicates a different meaning. In addition, the following words, terms and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“State sales tax statutes” means Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, which levy a certain retail sales tax, and include all statutes, including amendments to said sections, which expressly set forth any exemptions from the computation of the tax levied by said sections and all other statutes which expressly apply to, or purport to affect, the administration of said sections and the incidence and collection of the tax imposed therein;

“State sales tax” means the tax imposed by the state sales tax statutes;

“Month” means the calendar month;

“County” means Monroe County.

**Section 3.** The Monroe County Commission is hereby authorized to levy and impose a one percent sales or gross receipts tax upon the sales of all tangible personal property sold in Monroe County, Alabama.

There are exempted, however, from the provisions of this section and from the computation of the amount of the tax imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

In addition, there shall be exempted from the computation of the amount of tax the gross proceeds of the sale of automotive vehicles, truck trailers, semi trailers, and house trailers; the gross proceeds of sale of any machine, machinery or equipment either that which is self-propelled or otherwise propelled or drawn and which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment; and the gross proceeds of the sale of machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, including the parts, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

**Section 4.** The sales taxes authorized to be levied in Section 3 of this act shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the months in which the tax accrues. All taxes levied in this act shall be paid to and collected by the state department of revenue at the same time and along with the collection of the state sales tax. On or prior to the due dates of the tax herein levied each person subject to such tax shall file with the state department of revenue a report or return in such form as may prescribed by the department, setting forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all such sales and gross receipts of all such business transactions. Such report shall also include such other items of information pertinent to the said tax and the amount thereof as the state department of revenue may require. Any person subject to the tax levied may defer reporting credit sales until after their collection, and in the event such person so defers reporting them, such person shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the Monroe County Commission, or its designated agent, at reasonable times during business hours.

**Section 5.** Each person engaging or continuing within Monroe County in a business subject to the tax levied in section 3 of this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said sale or admission. It shall

be unlawful for any person subject to the tax levied to fail or refuse to add on the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sale or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof.

**Section 6.** The tax authorized to be imposed by this act shall constitute a debt due Monroe County and may be collected as provided by law. The said tax, together with interest and penalties and respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said tax is due or who is required to collect said tax. All of the provisions of the revenue laws of this state which apply to the enforcement of liens for license taxes due to this state shall apply fully to the collection of the tax herein levied, and the state department of revenue, for the use and benefit of Monroe County shall collect such tax and enforce this act and shall and exercise for such collection and enforcement all rights and remedies that this state or the department has for collection of the state sales tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act; and the department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the tax collected by it Monroe County.

**Section 7.** All provisions of the state sales tax statutes with respect to payment, assessment, and collection of the state sales tax, making of reports and keeping and preserving records with respect thereto, penalties for failure to pay the tax, the promulgation of the rules and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax authorized to be levied in Section 3 of this act shall apply to the county tax levied under this act. The state commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties and obligations with respect to the county tax levied under this act that are imposed on such commissioner and department, respectively, by the state tax statutes. All provisions of the state sales tax statutes that are made applicable by this act to the county tax levied under this act and to the administration and enforcement of this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 8.** The state department of revenue shall charge Monroe County for collecting the sale tax levied under this act such amount



of percentage of total collections as may be agreed upon the commissioner of revenue and the Monroe County Commission, but such charge shall not, in any event, exceed ten percent of the total amount of the sales tax collected in said county under this act. Such charge for collecting such sale tax may be deducted each month from the gross revenues from such sale tax before certification of the amount of the proceeds thereof due Monroe County for that month. The commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax is received by the department of revenue, and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder) the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Monroe County during the month immediately preceding such certification. Provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Monroe County during each month, the commissioner may deduct from the tax collected in said month the charge due the department for the collection of the tax for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Monroe County in his official capacity in an amount equal to the amount so certified by the commissioner of revenue as having been collected for the use of the county. All revenues arising from the taxes herein authorized to be levied that are due to be paid to Monroe County shall be deposited in the county general fund.

**Section 9.** The Monroe County Commission shall have the right, at its discretion, to appropriate an amount from the receipts of the one cent sales tax to each of the municipalities in Monroe County, any appropriation to the municipalities shall be made from the general fund to which this one cent sales tax is deposited and shall be done by resolution of the County Commission which resolution shall determine the amount paid to each municipality and shall be spread upon the minutes of the said Monroe County Commission.

**Section 10.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-573H. 1061—Reps. Britnell, Lauderdale,  
and Newman

## AN ACT

Relating to Marion County; providing for the filing for record and the preservation of all orders and decrees made and entered by any judge of the circuit criminal court in Marion County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Marion County, all orders and decrees shall be made and entered by circuit criminal judges sitting in and for said county on a sheet or sheets, commonly call trial sheets. There shall be a trial sheet or sheets for each case docketed in such court properly identified by the style of the case and a case number.

**Section 2.** After all orders and decrees have been made and entered, in any case, by the circuit criminal judge or judges sitting in and for such county, the clerk of the circuit court of such county shall file such sheets in numerical order in well-bound books labeled "Minute Books" and such judgments or decrees shall have the same force and effect as minutes of the circuit criminal courts of the said county prior to the passage and approval of this act.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 3:45 P.M.

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Act No. 85-574

S. 140—Senator Teague

## AN ACT

To further amend Section 40-23-4, Code of Alabama 1975, as last amended relating to sales tax exemptions so as to repeal a certain partial exemption on the payment

of such tax for certain blind vendors; to further amend Section 40-23-5, Code of Alabama 1975, relating to exemptions from certain state, county, and municipal sales and use taxes, so as to include certain blind vendors.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 40-23-4 and 40-23-5, Code of Alabama 1975, as last amended, are further amended to read as follows:

§40-23-4.

“(a) There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed or payable under this division the following:

“(1) The gross proceeds of the sales of lubricating oil and gasoline as define in sections 40-17-30 and 40-17-170 and the gross proceeds from those sales of lubricating oil destined for out-of-state use which are transacted in a manner whereby an out-of-state purchaser takes delivery of such oil at a distributor’s plant within this state and transports it out-of state, which are otherwise taxed.

“(2) The gross proceeds of the sale, or sales, of fertilizer. The word ‘fertilizer’ shall not be construed to include cottonseed meal, when not in combination with other materials.

“(3) The gross proceeds of the sale, or sales, of seeds for planting purposes and baby chicks and poults. Nothing herein shall be construed to exempt or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock or floral products.

“(4) The gross proceeds of sales of insecticides and fungicides and feed for livestock and poultry, but not including prepared food for dogs and cats.

“(5) The gross proceeds of sales of all livestock by whomsoever sold, and also the gross proceeds of poultry and other other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale. when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothing herein shall be construed to exempt or exclude from the measure or computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

“(6) Cottonseed meal exchanged for cottonseed at or by cotton gins.

“(7) The gross receipts from the business on which, or for engaging in which, a license or privilege tax is levied by or under

the provisions of sections 40-21-50, 40-21-53 and 40-21-56 through 40-21-60; provided, that nothing contained in this subdivision shall be construed to exempt or relieve the person or persons operating the business enumerated in said sections from the payments of the tax levied by this division upon or measured by the gross proceeds of sales of any tangible personal property, except gas and water, the gross receipts from the sale of which are the measure of the tax levied by said section 40-21-50, merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this division.

(8) The gross proceeds of sales or gross receipts of or by any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the public service commission of Alabama or like regulatory bodies.

“(9) The gross proceeds of the sale, or sales of wood residue, coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products, or the generation of heat or power used in manufacturing tangible personal property for sale, for the generation of electric power or energy for use in manufacturing tangible personal property for sale or for resale, or for the generation of motive power for transportation.

“(10) The gross proceeds from the sale or sales of fuel and supplies for use or consumption aboard ships and towing vessels plying the high seas or gulf intracoastal waterway either in intercoastal trade between ports in the state of Alabama and ports in other states of the United States or its possessions or in foreign commerce between ports in the state of Alabama and ports in foreign countries; provided, that nothing in this division shall be construed to the gross proceeds of sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of 50 tons burden or less.

“(11) The gross proceeds of sales of tangible personal property to the state of Alabama, to the counties within the state and to incorporated municipalities of the state of Alabama.

“(12) The gross proceeds of the sale or sales of railroad cars, and vessels and barges of more than 50 tons burden, when sold by the manufacturers or builders thereof.

“(13) The gross proceeds of the sale or sales of materials, equipment, and machinery which enter into and become a component

part of ships, vessels or barges of more than 50 tons burden, constructed or built within this state.

“(14) The gross proceeds of the sale or sales of fuel oil purchased as fuel for kiln use in manufacturing establishments.

“(15) The gross proceeds of the sale or sales of tangible personal property to county and city school boards, independent school boards and all educational institutions and agencies of the state of Alabama, the counties within the state or any incorporated municipalities of the state of Alabama.

“(16) The gross proceeds from the sale of all devices or facilities, and all identifiable components thereof or materials for use therein, acquired primarily for the control, reduction or elimination of air or water pollution and the gross proceeds from the sale of all identifiable components of or materials used or intended for use in structures built primarily for the control, reduction or elimination of air and water pollution.

“(17) The gross proceeds of sales of tangible personal property or the gross receipts of any business which the state is prohibited from taxing under the Constitution or laws of the United States or under the Constitution of this state.

“(18) When dealers or distributors use parts taken from stocks owned by them in making repairs without charge for such parts to the owner of the property repaired pursuant to warranty agreements entered into by manufacturers, such use shall not constitute taxable sales to the manufacturers, distributors or to the dealers, under this division or under any county sales tax law.

“(19) The gross proceeds received from the sale or furnishing of food, including potato chips, candy, fruit and similar items, soft drinks, tobacco products and stationery and other similar or related articles by hospital canteens operated by Alabama state hospitals at Bryce hospital and Partlow state school for mental deficient at Tuscaloosa, Alabama, and Searcy hospital at Mt. Vernon, Alabama, for the benefit of the patients therein.

“(20) The gross proceeds of the sale, or sales, of wrapping paper and other wrapping materials when used in preparing poultry or poultry products for delivery, shipment, or sale by the producer, processor, packer or seller of such poultry or poultry products, including pallets used in shipping poultry and egg products, paper or other materials used for lining boxes or other containers in which poultry or poultry products are packed together with any other materials placed in such containers for the delivery, shipment or sale of poultry or poultry products.

“(21) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines or medications, vitamins, minerals or other nutrients and all other feed ingredients including concentrates, supplements and other feed ingredients when such substances are used as ingredients in mixing and preparing feed for fish raised to be sold on a commercial basis, livestock and poultry. Such exemption herein granted shall be in addition to exemptions now provided by law for feed for fish raised to be sold on a commercial basis, livestock and poultry, but not including prepared foods for dogs or cats.

“(22) The gross proceeds of the sale, or sales, of seedlings, plants, shoots and slips which are to be used for planting vegetable gardens or truck farms. Nothing herein shall be construed to exempt, or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale, or the use of plants, seedlings, shoots, slips, nursery stock and floral products, except as hereinabove exempted.

“(23) The gross proceeds of the sale, or sales, of fabricated steel tube sections, when produced and fabricated in this state by any person, firm or corporation for any vehicular tunnel for highway vehicular traffic, when sold by the manufacturer or fabricator thereof, and also the gross proceeds of the sale, or sales, of steel which enters into and become a component part of such fabricated steel tube sections of said tunnel.

“(24) The gross proceeds from sales of admissions to any theatrical production, symphonic or other orchestral concert, ballet or opera production when such concert or production is presented by any society, association, guild or workshop group, organized within this state, whose members or some of whose members regularly and actively participate in such concerts or productions for the purposes of providing a creative outlet for the cultural and educational interests of such members, and of promoting such interests for the betterment of the community by presenting such productions to the general public for an admission charge.

“The employment of a paid director or conductor to assist in any such presentation described in this subdivision shall not be construed to prohibit the exemptions herein provided.

“(25) The gross proceeds of sales of herbicides for agricultural uses by whomsoever sold. The term ‘herbicides’, as used in this subdivision, means any substance or mixture of substances intended to prevent, destroy, repel or retard the growth of weeds or plants. It shall include preemergence herbicides, postemergence herbicides, lay-by herbicides, pasture herbicides, defoliant herbicides and desiccant herbicides.

“(26) The Alabama chapter of the cystic fibrosis research foundation, and the Jefferson tuberculosis sanatorium and any of their departments or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, shall be exempted from the computation of the tax on the gross proceeds of all sales levied, assessed or payable.

“(27) The gross proceeds from the sale or sales of fuel for use or consumption aboard commercial fishing vessels are hereby exempt from the computation of all sales taxes levied, assessed, or payable under the provisions of this division or levied under any county or municipal sales tax law.

“The words ‘commercial fishing vessels’ shall mean vessels whose masters and owners are regularly and exclusively engaged in fishing as their means of livelihood.

“(28) The gross proceeds of sales of sawdust, wood shavings, wood chips and other like materials sold for use as ‘chicken litter’ by poultry producers and poultry processors.

“(29) The gross proceeds of the sales of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock and poultry by whomsoever sold. Such exemption as herein granted shall be in addition to the exemption provided by law for feed for fish, livestock and poultry, and in the addition to the exemptions provided by law for the above-enumerated substances and products when mixed and used as ingredients in fish, livestock and poultry feed.

“(30) The gross proceeds of the sale or sales of all medicines prescribed by physicians for persons who are 65 years of age or older, and when said prescriptions are filled by licensed pharmacists, shall be exempted under this division under any county or municipal sales tax law. The exemption provided in this section shall not apply to any medicine purchased in any manner other than as is herein provided.

For the purposes of this subdivision, proof of age may be accomplished by filing with the dispensing pharmacist any one or more of the following documents:

“a. The name and claim number as shown on a ‘Medicare’ card issued by the United States social security administration.

“b. A certificate executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

"c. An affidavit executed by any adult person having knowledge of the fact that the person for whom the medicine was prescribed is not less than 65 years of age.

"For the purposes of this subdivision, any person filing a false proof of age shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of \$100.00.

"(31) There shall be exempted from the tax levied by this division the gross receipts of sales of grass sod of all kinds and character when in the original state of production or condition of preparation for sale, when such sales are made by the producer or members of his family or for him by those employed by him to assist in the production thereof; provided, that nothing herein shall be construed to exempt sales of sod by a person engaged in the business of selling plants, seedlings, nursery stock or floral products.

"(32) The gross receipts of sales of the following items or materials which are necessary in the farm-to-market production of tomatoes when such items or materials are used by the producer or members of his family or for him by those employed by him to assist in the production thereof: twine for tying tomatoes, tomato stakes, field boxes (wooden boxes used to take tomatoes from the fields to shed) and tomato boxes used in shipments to customers.

"(33) The gross proceeds from the sale of liquified petroleum gas sold to be used for agricultural purposes.

"(34) The gross receipts of sales from state nurseries of forest tree seedlings.

"(35) The gross receipts of sales of forest tree seed by the state.

"(36) The gross receipts of sales of *Lespedeza bicolor* and other species of perennial plant seed and seedlings sold for wildlife and game food production purposes by the state.

"(37) The gross receipts of any aircraft manufactured, sold and delivered in this state if said aircraft are not permanently domiciled in Alabama and are removed to another state within three days of delivery.

"(38) The gross proceeds from the sale or sales of all diesel fuel used for off-highway agricultural purposes.

"(39) The gross proceeds from sales of admissions to any sporting event which:

"a. takes place in the State of Alabama on or after January 1, 1984, regardless of when such sales occur; and

"b. is hosted by a not-for-profit corporation organized and existing under the laws of the State of Alabama; and



"c. determines a national championship of a national organization, including but not limited to the professional golfers association of America, the tournament players association, the United States golf association, the United States tennis association, and the national collegiate athletic association; and

"d. has not been held in the State of Alabama on more than one prior occasion, provided, however, that for such purpose the professional golfers association championship, the United States open golf championship, the United States amateur golf championship of the United States golf association, and the United States open tennis Championship shall be treated as a separate event.

"(b) Any violation of any provision of this section shall be punishable in a court of competent jurisdiction by a fine of not less than \$500.00 and no more than \$2,000.00 and imprisonment of not less than six months nor more than one year in the county jail.

§40-23-5.

"(a) The Diabetes Trust Fund, Inc., and any of its branches or agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, are hereby exempted from paying any state, county or municipal sales or use taxes.

"(b) The Chilton county rescue squad is hereby exempted from paying any sales or use taxes.

"(c) The state headquarters only of the American Legion, the American Veterans of World War II, Korea and Vietnam (a/k/a 'AMVETS'), the Disabled American Veterans, the Veterans of Foreign Wars (a/k/a VFW), Alabama Goodwill Industries and the Alabama Sight Conservation Association are hereby exempted from paying any state, county or municipal sales or use taxes.

"(d) The Grand Chapter of all Orders of the Eastern Star and the South Alabama State Fair Association Southeastern Livestock Exposition of the state of Alabama and any of its agencies, heretofore or hereafter organized and existing in good faith in the state of Alabama for purposes other than for pecuniary gain and not for individual profit, are hereby exempted from paying any state, county or municipal sales and use taxes.

"(e) The Alabama Goodwill Industries, Inc., of Birmingham is hereby exempted from paying any state, municipal or county sales and use taxes.

"(f) The Alabama Federation of Women's Clubs is hereby exempted from paying any state, county or municipal sales or use taxes.

“(g) The National Conference of State Legislatures and the Council of State Governments are hereby exempted from paying any state, county or municipal sales or use taxes.

“(h) All blind vendors associated with the Business Enterprise Program of the division of Rehabilitation and Crippled Children Service through the Department of Education are hereby exempted from paying any state, county or municipal sales or use taxes.”

**Section 2.** It is specifically provided that if any portion of this act shall be construed unconstitutional then the entire act shall be null and void.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 17, 1985

Time: 2:45 P.M

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Act No. 85-575

H. 88—Rep. Hall

### AN ACT

To propose an amendment to the Constitution of 1901, authorizing the Legislature to provide for promotion of production, distribution, marketing, use, improvement and sale of wheat and other feed grains as defined and authorized by the Legislature.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Section 284, 285 and 287 of the Constitution of 1901 as amended:

### PROPOSED AMENDMENT

The Legislature may hereafter, by general law, provide for the promotion of the production, distribution, improvement, marketing, use and sale of wheat and other feed grains as defined and authorized by the Legislature. The Legislature may provide for the promotion of wheat and other feed grains and wheat and other feed grain products by research, education, advertising and other methods. The Legislature is further authorized to provide means and methods for the financing of any such promotional activity by prescribing a procedure whereby producers of wheat and other feed grains may by referendum among such producers levy upon themselves and collect assessments, fees, or charges upon the sale of wheat and other feed

grains for the financing of any such promotional program or activity in cooperation with buyers, processors, dealers, and handlers of wheat and other feed grains. The Legislature may make provisions for the non-payment of assessments by wheat and other feed grain producers, and shall make provisions for the refund of assessments to any wheat and other feed grain producer who does not desire to participate in an assessment program. The Legislature shall provide for the collection, disbursement, distribution or expenditure of assessments or charges authorized hereunder and to provide penalties for failure to make collection and distribution of assessments. The Legislature shall provide for the designation of a nonprofit association or organization for the promotion and betterment of wheat and other feed grains and wheat and other feed grain products to administer and carry out such promotional program which shall include the conducting of elections or referendums among producers of wheat and other feed grains. The Legislature may provide the manner by which such referendum is held, including the procedure for application for approval to conduct the referendum, the appropriate action to be taken by the State Board of Agriculture and Industries on such application, the requirements and eligibility of the association or organization which will conduct such referendum, the procedures for voting and eligibility to vote in such referendum, the details of the conduct of such referendum. The Legislature shall further provide for the deposit, withdrawal, disbursement and expenditure by the designated association of any funds received subject to the supervision and control of the activities as authorized herein in the Department of Agriculture and Industries and the State Board of Agriculture and Industries. The Legislature shall further provide a procedure whereby said association or organization is bonded, for the examination and auditing of said association or organization, and for reasonably necessary rules and regulations to be adopted by the State Board of Agriculture and Industries to effectively carry out the intent and purposes herein enumerated. Assessments, fees or other charges collected as authorized by any legislative act adopted under authority hereof shall not be considered as a tax within the meaning of the Constitution or any provision thereof. Any uniformity requirements of this Constitution shall be satisfied by the application of the program upon wheat and other feed grains.

**Section 2.** An election upon the proposed amendment is ordered to be held at the next general, special, primary or constitutional amendment election after the expiration of three months from final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Section 284 and 285 of the Constitution of Alabama, as amended, and the general election laws of this state.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

**Section 4.** The provisions of this act shall be effective immediately upon ratification by the people and the Governor thereafter shall proclaim this amendment as required by law.

Passed the House March 28, 1985

Passed the Senate May 9, 1985

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Act No. 85-576

H. 902—Rep. Parker

### AN ACT

Proposing an amendment to the Constitution of Alabama, 1901, relating to school district tax for the City of Hartselle, Morgan County, which shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of the Constitution when all requirements of Amendment 425 of the Constitution of 1901 are fulfilled:

### PROPOSED AMENDMENT

The school district taxes now levied and collected for the Hartselle City Board of Education and authorized by law shall be continued upon approval of this amendment by the qualified electors voting thereon in said school district. Said taxes shall be continued for a period of thirty years, commencing October 1, 1987. Notice shall be given, the ballot prepared and the election conducted in the same manner as required by law for elections on school district taxes and constitutional amendments. The ballot shall be substantially as follows: "For continuation of all school district taxes now provided by law? Yes \_\_\_\_\_ No \_\_\_\_\_." If a majority of the qualified electors voting thereon shall vote in favor of continuing such taxes then the said taxes shall be continued; if a majority of the qualified electors voting thereon vote in opposition of continuing such taxes

then the provisions of this act shall become null and void and have no effect.

Only the persons who at the time of the election are qualified voters of said district 70 shall be entitled to participate in the question.

The provisions of this act shall be construed in *pari materia* with all other provisions relating to school district taxes in Morgan County, except as there is a direct conflict herewith.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be unanimously approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Morgan County after the expiration of three months from final adjournment of the current session of the legislature. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

Passed the House April 25, 1985

Passed the Senate May 20, 1985

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Act No. 85-577

H. 1014—Reps. Albright, Grayson,  
and Hettinger

### AN ACT

To propose an amendment to the Constitution of Alabama of 1901 to repeal certain exemptions authorized by law on that portion of any local ad valorem taxes levied in Madison County that upon collection is earmarked for public school purposes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to the Constitution of Alabama of 1901 is proposed and shall become valid as a part of

the Constitution when all requirements of Amendment 425 of the Constitution of Alabama of 1901 are fulfilled:

### PROPOSED AMENDMENT

All exemptions authorized by Section 40-9-19, Code of Alabama 1975, as amended, against that portion of any local ad valorem taxes levied on any property situated in Madison County that upon collection has the proceeds thereof earmarked for public school purposes are hereby repealed and such exemptions shall no longer be granted against said portion of such local taxes.

**Section 2.** The provisions of this amendment shall have no force and effect unless it shall first be unanimously approved by at least three-fifths vote of the elected members of each house and unanimously approved by the local constitutional amendment commission.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in each newspaper qualified to run legal notices in the county affected.

**Section 4.** An election upon the proposed amendment is ordered to be held at the next general, special, constitutional or county election in Madison County after the expiration of three months from final adjournment of the current session of the legislature. The election shall be held in accordance with the provisions of Amendment 425 to the Constitution of 1901, and the general election laws of this state.

Passed the House May 7, 1985 as amended

Passed the Senate May 20, 1985

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Act No. 85-578

H. 850—Rep. Marietta

### AN ACT

Relating to Mobile County; to allow the Mobile County Commission, at its discretion, to grant an expense allowance to the District Court Clerk of the Thirteenth Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Mobile County Commission is hereby authorized, at its discretion, to pay the District Court Clerk of the Thirteenth

Judicial Circuit an expense allowance in the amount of \$250.00 per month; provided, that such expense allowance shall be in addition to all compensation or salary supplement heretofore payable to such officer.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-579

H. 791—Reps. McMillan and Penry

AN ACT

Relating to Baldwin County; to provide that the cost of conducting certain elections shall be paid by the county.

*Be It Enacted by the Legislature Alabama:*

**Section 1.** All costs and expenses incurred in conducting the referendum election concerning combining the office of tax assessor and tax collector held pursuant to Act 84-520, H. 860, 1984 Regular Session shall be paid by Baldwin County from the general fund of the county.

All costs and expenses incurred in conducting the referendum election concerning altering the form of county government held on November 6, 1984, shall be paid by Baldwin County from the general fund of the county.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-580

H. 790—Reps. McMillan, and Penry

AN ACT

Relating to Baldwin County; amending the title and Section 2 of Act No. 79-623, S. 479, 1979 Regular Session (Acts 1979, p. 1106), which act relates to the

disposition of funds from the leasing of oil, gas and mineral rights owned by the county on rights-of-way within the county road system, so as to provide further for the expenditure of such funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The title and Section 2 of Act No. 79-623, S. 479, 1979 Regular Session (Acts 1979, p. 1106), are hereby amended to read as follows:

“An Act Relating to Baldwin County; to provide for the leasing of the oil, gas and mineral rights that are owned by the county on the right-of-way of the Baldwin County road system; and to provide for the disposition of the funds accruing from such leases.

“Section 2. Any funds accruing from the leasing of the mineral rights of the county road system as provided in this act shall be used to build and maintain public boat launching ramps in the Mobile North River Delta Region of Baldwin County from the Bay Bridge North to the Baldwin County line.

“After one (1) such ramp is built such funds may be used to construct, repair, or maintain public launching ramps, in any part of Baldwin County, and to provide for the acquisition of property for and the construction, repair, and maintenance of access roads within the county, at the discretion of the county commission.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-581

H. 179—Rep. Turner

### AN ACT

To provide a supplement to the salaries of circuit court bailiffs in the Thirteenth Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to the salaries paid to the bailiffs serving in the circuit or district court of the Thirteenth Judicial Circuit by the State, there may also be paid to each of said bailiffs a supplemental salary not to exceed the sum equal to forty percent (40%) of the salary paid to each of said bailiffs by the State. At the discretion of the Mobile County Commission, said supplemental salary shall be paid out of the general fund of the county in equal installments at



the same time and in the same manner that the salaries of other county employees are paid.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-582

H. 655—Rep. Mathis

### AN ACT

Relating to Geneva County; providing an expense allowance to the superintendent of education for the period retroactive from July 1, 1984, through June 30, 1985, payable from the county treasury; and providing for an automatic repealer July 1, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Geneva County superintendent of education shall be entitled to a one time expense allowance in the sum of \$6,000.00 for the period, retroactive to July 1, 1984, through June 30, 1985. Such expense allowance shall be supplemental for any and all compensation now provided by law for said superintendent of education and shall be paid in equal monthly installments; provided, however, that the first payment shall include the sum per month dating retroactively from July 1, 1984, to the month of payment. Such expense allowance shall be paid from the county treasury.

**Section 2.** The provisions of this act shall automatically be repealed July 1, 1985.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

Act No. 85-583

H. 756—Rep. Mathis

## AN ACT

Relating to the Geneva County Superintendent of Education; establishing an index range for any expense allowance granted to such superintendent; authorizing the Geneva County Board of Education to set such salary; and providing such allowance shall be made from the county treasury.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Geneva County Board of Education is authorized to set a monthly expense allowance, payable from the county treasury in equal monthly installments. Such expense allowance shall be in no greater percentage, each year, than the cost-of living increase made for public school teachers by the Alabama Legislature, if any be made.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-584

H. 880—Rep. Mathis

## AN ACT

Relating to Geneva County to amend Section 1 of Act 79-585, Acts of Alabama, page 1045; relating to the clerk hire allowances paid to the tax assessor and tax collector, so as to provide further for such allowances for the period of time from August 1, 1979 through July 31, 1982; and to provide retroactive effect for such period of time.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act 79-585, Acts of Alabama, Page 1045, is hereby amended to read as follows:

“Section 1. The Geneva County Commission may, in its discretion, provide for the tax assessor and tax collector of Geneva

County, a clerk hire allowance not to exceed \$7,040.00 for the period beginning August 1, 1979 and ending July 31, 1980; \$6,700.00 for the period beginning August 1, 1980 and ending July 31, 1981; and \$6,399.96 for the period beginning August 1, 1981 and ending July 31, 1982. Subsequent to August 1, 1982 such allowance shall not exceed \$6,000.00 per annum which shall be paid when authorized by the Geneva County Commission from the county treasury in equal bi-monthly installments on vouchers signed by officers entitled to the allowance. Such allowances shall be in lieu of all other allowances heretofore provided for such officers."

**Section 2.** This amendatory act shall have retroactive effect to August 1, 1979, and all action taken and payments made pursuant thereto on or after that date are ratified and affirmed.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-585

H. 881—Rep. Mathis

### AN ACT

Relating to Geneva County; providing for the mode of establishing the construction, maintenance and repair of public roads, highways, bridges and ferries under the county unit system; authorizing and requiring the county governing body to employ and regulate the compensation of a county engineer; providing for the manner of selecting said engineer; prescribing his qualifications and requiring bond; defining his authority, powers and duties and those of the county governing body in relation to the roads, bridges and ferries of Geneva County, providing for an advisory referendum called for such purpose; and providing for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to all other authority now vested in the Geneva County Commission, the Commission shall be authorized to set the necessary policies and priorities for the construction, maintenance and repair of all public roads, county highways, bridges, ferries and public facilities within the County, to insure a safe and adequate road system, upon a resolution duly passed and a public hearing thereon. It shall be the further duty of each associate member of the commission to inspect the roads of his district from time to time, and hear the suggestions and complaints of the citizens, and report the same to the commission with his recommendations; to advise with the county engineer concerning the problems of his district, particularly; and to assist in securing rights-of-ways, and assist in public service generally. It shall be the duty of the county engineer to provide the necessary equipment and personnel to respond to any request of an emergency nature made by an associate member

of the Commission or any citizen in the absence of a commissioner wherever and whenever an emergency shall arise.

**Section 2.** The County Commission shall appoint and employ a county engineer, who shall be a thoroughly qualified and competent professional engineer not required to be a land surveyor, but otherwise possessing all of the qualifications as specified for county engineers under the general laws of the State of Alabama; and he shall devote his entire time and attention to the maintenance and construction of the county public roads, highways, bridges, ferries, and other county engineering projects and shall, during his employment, reside in Geneva County, Alabama. The said county engineer shall serve at the pleasure of the Geneva County Commission.

**Section 3.** It shall be the duty of the county engineer, in accordance with policy established by the Commission, within the law of the State of Alabama to: (1) employ, supervise and direct all such assistants as are necessary to properly maintain and construct the public roads, highways, bridges and ferries of Geneva County, and he shall have authority to prescribe their duties, and to discharge said employees for cause; (2) perform such engineering service and surveying as may be required; (3) maintain the necessary accounting records to reflect the cost of the county highway system; (4) in accordance with the policies and priorities established by the Commission, to build or construct new roads, or change old roads; (5) to locate within the various districts of the County the necessary equipment to perform routine maintenance of all public roads, highways, bridges and ferries on a continuing basis; and (6) it shall be his further duty, insofar as is feasible, to construct and maintain all county roads on the basis of the county as a unit, without regard to any district or beat lines.

**Section 4.** It shall be the duty of the Commission to fix, from time to time, in accordance with prevailing economic conditions, the various scales of wages or salaries to be paid for labor necessary in the maintenance and construction of said roads, bridges, ferries, and public facilities and said wage or salary scale shall not be exceeded by said engineer in the employment of labor and assistants.

**Section 5.** The Commission shall fix the amount of the salary of the said county engineer, payable in equal monthly installments from appropriate road and highway funds.

**Section 6.** Before entering upon his duties, the said county engineer shall make and enter into a surety bond in the amount of five thousand dollars (\$5,000.00), payable to Geneva County, conditioned for the faithful discharge and performance of his duties as such engineer, and for the faithful accounting of all monies or property of said county, which may come into his possession or custody. Said

bond shall be executed by a surety company authorized and qualified to do business in Alabama, and be approved by the Commission. The premiums thereon shall be paid by the county.

**Section 7.** The Commission shall furnish the county engineer with an office within the county and all necessary office supplies, equipment, communication, utilities and with necessary transportation to accomplish his duties under this Act.

**Section 8.** The county engineer shall be the custodian of all road machinery and equipment, tools, supplies, and repair parts, owned by the County, and he shall be accountable to the Commission for the same at all times. The Commission shall establish necessary policy and regulations governing accountability and relief therefrom. The Commission shall furnish the necessary storage and repair facilities for said tools, machinery, supplies and equipment, and the county engineer shall keep on file in his office, at all times, and up-to-date inventory containing a list of all said tools, machinery, equipment and supplies belonging to the County.

**Section 9.** The authority of said county engineer shall be limited to the expenditure of such funds for the purpose of construction, maintenance or repairs of public roads, bridges, ferries, or any other duties for the County as may be set aside and appropriated by the Commission as hereinafter provided; it shall be the duty of said Commission at some meeting in September of each calendar year or not later than the first meeting in October following, by order or resolution spread upon the minutes, to fix and determine the amount of the funds which will be available for the purpose of building, maintaining and constructing public roads, bridges and ferries of the County for the current fiscal year, beginning on October 1st, which said amount, other than the salary of said county engineer and his necessary expenses, shall not be exceeded by him in building, maintaining and constructing public roads, bridges and ferries in the County during said period; provided however, that said Commission is authorized, from time to time within any such period, to increase the amount so allowed to be expended by said county engineer during said period, when such authorization will not conflict with provisions of the general laws of the state. Provided further, that if such funds are presently available, and have not heretofore been set aside by the present County Commission, immediately upon the effective date, it shall be the duty of the Commission to set aside a sufficient portion of said funds for the maintenance of said roads, bridges, and ferries until the meeting in September, or October, 1985, as hereinabove provided for.

**Section 10.** The county engineer shall make written requisition to the County Purchasing Agent for all materials machinery, equipment, and necessary supplies needed for the construction, maintenance, or repair of the public roads, bridges and ferries of the County.

Such requisitions shall be filed and presented by the chairman to the Commission at its next meeting, for the approval of the Commission. Provided, however, that the County Purchasing Agent shall have full power and authority to make said purchases without first obtaining the approval of the Commission if the delay might, in his judgment, cause an unnecessary and harmful interruption in the operation of the county road system, providing said purchases are made in accordance with prevailing law. The County Purchasing Agent shall be solely responsible and accountable for purchasing the materials, machinery, equipment and supplies under the approved requisitions, and shall report monthly to the County Commission.

**Section 11.** It shall be the further duty of the county engineer to inspect all materials, machinery, equipment, and supplies, purchased by the County for use on public roads, bridges and ferries, when the same is delivered, and the same shall neither be accepted nor paid for without its first having been approved by him and any deviation shall be reported by the engineer to the Commission.

**Section 12.** In the event an emergency should arise, in which it would be impossible for the Commission to employ an engineer, as hereinabove provided for, then, in that event, the Commission shall employ a competent road supervisor who need not be an engineer, but, when so employed, he shall have all the duties and authority of said engineer, and be subject to the provisions of this Act; but an emergency shall not exist longer than necessary to employ a qualified engineer who will accept employment by said Commission under the terms of this Act, it being the intention of this Act to provide that, when county roads, bridges and ferries are to be maintained or constructed in said county, the supervision thereof shall be under a qualified engineer.

**Section 13.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 14.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 15.** The commission, prior to implementing any provision of this act, shall first by resolution call for a public hearing on the question and thereafter set an advisory referendum for the qualified electors of the county held for such purpose. On the ballot at the next general, special or county-wide election the following question, or substantially the following question, shall be presented to the electors of Geneva County:

“Do you favor the adoption of Act No. 85- \_\_\_\_\_ of the 1985 Regular Session which places Geneva County on a unit system of public road and bridge maintenance by a county engineer?”

Yes \_\_\_\_\_

No \_\_\_\_\_”

**Section 16.** This act shall become effective immediately upon its passage and approval by the Governor, except as otherwise herein provided.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-586

H. 882—Rep. Mathis

### AN ACT

Relating to Geneva County; providing for election of the members of the county commission from districts to be defined by the present commission, as provided by law; providing for an advisory referendum by the qualified electors of Geneva County; providing for the members of the commission to reside within the district they represent throughout their terms.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The present members of the Geneva County Commission shall divide the county into commission districts for purposes of electing future members to the county commission. Such districts shall be divided and defined, as nearly as may be, on a population basis, and in contiguous area and as provided by law, so that each district shall have approximately the same population as every other district. The judge of probate shall continue to serve as the ex-officio chairman of the commission and shall vote only in cases of tie votes on matters before the commission. Each candidate for district commissioner shall be a resident and qualified elector of the district which he or she represents and upon election shall continue to reside therein throughout their respective terms. Such district members shall be elected only by the qualified electors from the respective districts which they represent.

**Section 2.** The county commission shall call an advisory referendum of the qualified electors of the county on the question of the definition of commission districts, in an election held for such purpose, in conjunction with the next general, special or county-wide election held in Geneva County. The county commission shall provide for such advisory referendum election and the question shall appear on the ballot as follows: “Do you approve of the present county commission dividing the county into districts for purposes of electing future county commissioners who will be both residents and qualified electors of their respective districts and the descriptions thereof ?  
Yes ( ) No ( ).”

Such election shall be conducted in the same manner as are all other county-wide elections and provided by law. The judge of probate shall certify the results of such advisory referendum election in the usual manner.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-587

H. 883—Rep. Mathis

## AN ACT

Relating to Geneva County; to establish a civil service system for Geneva County; to provide a policy for the administration of this act; to divide positions in the county into classified and exempt services, and to provide for changes between such services; to provide a status for present employees; to provide personnel rules and personnel plans for Geneva County; to provide for the appointment of members of the personnel board; and to provide for their successors in office; to provide for the adoption, amendment and repeal of rules, regulations, determinations, job classification plans, pay plans, and mandatory and/or permissive retirement plans to effectuate the purposes of this act; to provide for the employment of persons with competitive examination; to provide for temporary appointments and the manner in which and the extent to which they shall be made permanent; to provide for the establishment of lists of persons eligible for employment and to establish the manner in which such lists shall be used; to establish a period of probation for certain county employees; to provide for rules governing working hours and leaves of absence; to provide for the laying off of employees; to establish the manner in which employees may be disciplined and to provide a procedure under which certain employees may protest such disciplinary action; to give the personnel board the authority to require the attendance of witnesses and the production of documents at such proceeding and to establish penalties for failure to attend or produce records as required to provide for an appeal from decisions of such board in such protests; to require such board to maintain certain records; to prohibit and fix the punishment for certain political activity by certain employees of the county; to provide for the expenses of such board; and to guarantee certain rights to the governing body of Geneva County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. DEFINITION.** The following words, terms, and phrases, wherever used herein, shall have the meanings respectively



ascribed to them in this section, and shall include the singular as well as the plural:

Allocation means the assignment of positions to a class on the basis of the nature, difficulty and responsibility or work of the positions.

Appointing authority means the officials or board designated by resolution of the governing body as being the official or board having authority to fill vacancies in a specified class, or the governing body itself in the event that the governing body has made no such designation in respect to a class, or having made such designation, has thereafter repealed such resolution.

Board means the personnel board of Geneva County.

Certify, certification means the act of supplying the appointing authority with names of applicants deemed eligible for appointment to the class or position to be filled.

Class means a position or group of positions that involve similar duties and responsibilities and require similar qualifications and are designated by a single title indicative of the work to be performed.

County means Geneva County.

County commission shall mean Geneva County Commission.

Court means the circuit court of Geneva County, Alabama.

Demotion means removal of an employee from a position in one class to a position in another class having a lower maximum salary limit than the position from which he was removed.

Eligible list means a list of names of persons who have successfully completed by examination, written or oral, arranged in the order of their final ratings, as determined by the personnel board.

Employee means a person regularly occupying a position in the classified service or a person who is on authorized leave of absence and whose position is being held for him pending his return.

Laid-off means separated from the classified service of Geneva County because of lack of work or funds or other reason not related to fault, delinquency or misconduct on the part of the employees.

Merit system whenever the term "merit system" appears, it shall mean the same as "civil service system" within the meaning of this act.

Original appointment means the appointment to a position in the classified service of a person who is not being reemployed from the reemployment list, nor being promoted from the promotional

eligible list and who, except for those in the exempt service and those serving under temporary appointment, is not an employee of Geneva County.

Original appointment eligible list means the eligible list of persons qualified for original appointment to a position.

Position means a group of current duties and responsibilities assigned or delegated by competent authority and requiring the full or part time service of one employee.

Promotion means a change of employment from a position of one class to a position of another class which has a higher maximum salary rate.

Promotional eligible list means the eligible list of persons qualified for promotion to a position, and recommended by the department head.

Reemployment list means:

(a) the list of names of former employees who have been laid-off from a position within the past two year who had permanent status in that position so long as that position continues in the classified service, and who are recommended by the department head.

(b) the list of names of those former employees who resigned or otherwise left Geneva County service in good standing at any time within the past two (2) years, who are recommended by the department head.

Vacancy means a position duly created with funds provided for payment of a salary, which is not occupied, or which is occupied by a person serving under a temporary appointment.

**Section 2. DIVISION INTO EXEMPT AND CLASSIFIED SERVICES.** All offices and positions of Geneva County shall be divided into the exempt service and the classified service.

1. The exempt service shall include:

(a) the positions of all elected officials of Geneva County; (b) the positions of voluntary personnel and personnel appointed to serve without pay; (c) the positions of consultants rendering temporary professional service; (d) all positions involving seasonal or part-time employment; (e) the positions of attorneys rendering legal service; provided, however, such positions in the exempt service held by employees of boards and commissions may be placed in the classified service by resolution of the personnel board after favorable recommendation by such other board or commission, and the personnel board in such resolution shall prescribe the conditions under which the employees holding such positions so transferred may acquire

permanent status in such positions so long as such positions remain in the classified service; (f) employees not paid exclusively by Geneva County.

## 2. Classified service:

The classified service shall include all positions in the service of Geneva County who are paid out of the general fund and all other funds of Geneva County and out of funds of boards and commissions whose employees are placed in the classified service, and which are not specifically placed in the exempt service; provided, however, the personnel board may by resolution, pursuant to a recommendation by the boards, remove any position from the classified service and place it in the exempt service. Unless otherwise specifically provided or clearly implied, the provisions of this act shall apply only to the classified service.

**Section 3. STATUS OF PRESENT EMPLOYEES.** All employees who have acquired permanent status shall, subject to the provisions of this act, have permanent status in their present positions so long as such positions remain in the classified service. All other employees shall be eligible to acquire permanent status in their present positions so long as such positions remain in the classified service in the manner provided in Section 14, upon completing six months' service in such positions, such time to be computed from the beginning of such service, rather than from the effective date of this act.

**Section 4. BOARD MEMBERS.** The personnel program established by this act shall be administered by the board. The board shall be composed of five members who shall be appointed as follows:

A. One member shall be appointed by the County Commission and his initial term shall be for one (1) year.

B. One member shall be appointed by the Probate Judge and his initial term shall be for two (2) years.

C. One member shall be appointed by the sheriff and his initial term shall be for three (3) years.

D. One member shall be appointed by the Circuit Clerk and his initial term shall be for four (4) years.

E. One member shall be appointed by the Revenue Commissioner and his initial term shall be for five (5) years.

Upon the expiration of the initial term of each member, his successor shall be appointed by the original appointing authority for a term of five (5) years.

No person shall be appointed to the personnel board unless he is of recognized good character and ability, and is an actual resident

in and qualified elector of the county. No person shall be eligible to appointment or shall continue to be a member of a board created under this act who holds an elective office under the state, county, or any city therein, or who is a candidate for elective office. Vacancies on the board shall be filled for the unexpired terms in the same manner as original appointments are made. The board shall elect a chairman from among its members, who shall preside at its meetings. Three members shall constitute a quorum for the transaction of any business which may properly come before the board. Each person so appointed shall, within fifteen days after appointment, qualify by making oath that he will faithfully execute the duties of office to the best of his ability and knowledge which oath shall be recorded as provided by law. The board shall adopt reasonable rules regulating the procedure of the board. Notice of all meetings of the board shall be given to each member by the clerk of the board.

**Section 5. MEETINGS, PERSONNEL, COMPENSATION.**

The personnel board shall meet at least once each month at a time fixed by the board, or on the call of the chairman, or upon call of three members of said board. Such meetings shall be held in the county courthouse in an office which the county commission shall provide. The board shall designate a clerk of said board. The county commission shall authorize the employment of a personnel director and such additional clerks to assist the said clerk as it may deem necessary for the administration of this act.

Each member of the board shall be paid from the general fund of Geneva County for each meeting of the board the sum of \$50.00. In addition, each member of the board shall be paid from the general fund of Geneva County the sum of \$50.00 for each day, or part thereof, for attendance at personnel board hearing for employees.

**Section 6. RULES, CLASSIFICATION PLANS, AND PAY PLANS.** So long as the same are not inconsistent with this act, the board shall adopt rules and regulations for the operation of the civil service system established hereby, including, but not limited to a job classification plan, a pay plan, and a plan for the mandatory and/or permissive retirement of employees, and the same shall become operative and have the force and effect of law. All rules, regulations and pay and classification plans in effect at the time of the adoption of this act which are not in conflict with the provisions hereof shall remain in force and effect after the effective date of this act until the same are altered, amended or repealed in the manner hereafter provided.

**Section 7. AMENDMENTS AND REPEAL.** Any rule, determination, regulation or plan may be amended or repealed in whole or in part in the same manner as is provided herein for making of such rules, determination, regulation or plans.

**Section 8. JOB CLASSIFICATION PLAN.** After the adoption by the personnel board of a job classification plan, allocation of each position in the classified service shall be made by the board to the end that all positions in the same class shall be sufficiently alike to permit use of a single descriptive title, the same qualification requirements, the same test of competence, and the same pay scale.

**Section 9. PAY PLAN.** After the adoption by the personnel board of a pay plan and any rules of its administration, the board will assign each position to one of the pay ranges provided in the pay plan to the end that the rate or range of compensation for each class provided for in the pay plan shall be such as to reflect fairly the difference in duties and responsibilities in the various classes.

**Section 10. EXAMINATION.** Eligibility for original appointment or promotion to vacancies in positions in the classified service occurring after the adoption of this act shall be determined by the personnel board. The personnel board shall conduct such examinations as will fairly test the abilities and aptitudes of the applicants with respect to the duties to be performed. Applicants who pass the test and otherwise qualify for original appointment or promotion, as the case may be, shall be placed on the appropriate eligible list for the vacancy. The board may refuse to examine, or after examination refuse to certify the name of anyone who is found to lack any of the established qualification requirements for the position for which he applies or who is physically so disabled as to be unfit to perform duties of the position to which he seeks appointment, or who has been convicted of or is under indictment for any crime involving moral turpitude or who has been guilty of any infamous or disgraceful conduct or who has been dismissed from the public service for delinquency or misconduct or who has intentionally made a false statement of any material fact or practiced or attempted to practice any deception or fraud in his application, or in his examination.

**Section 11. TEMPORARY APPOINTMENT.** Pending the availability of a list of names certified as provided in Section 13 hereof, positions may be filled by temporary appointment. The personnel board may grant permanent status in a position in the classified service so long as such position remains in the classified service, to any employee who has served in a vacancy in a position then in the classified service by temporary appointment for at least twelve (12) months and who has passed his examination, if at the time of such action by the personnel board no such list of names has been so certified for the vacancy in which the said employee is serving.

**Section 12. LISTS OF NAMES OF PERSONS AVAILABLE FOR APPOINTMENT.** Lists of names of persons available for appointment to a vacancy in a position in the classified service will be selected for certification as provided in Section 13 hereof in the

order in which they appear from among the laid-off persons on the reemployment list, promotional eligible list, original appointment eligible list and reemployment list composed of former employees for said vacancy, which lists shall have priority one over the other in the order named. A former employee with probationary status with respect to the vacancy may, with the approval of the appointing authority, have his name placed at such position on the promotional eligible list as the appointing authority may designate. Policies and procedures for administering eligible lists and covering the duration, cancellation, replacement, and consolidation of such lists, and the removal or suspension of names therefrom shall be provided in the personnel rules.

**Section 13. METHOD OF FILLING VACANCIES.** Except as hereinafter provided, vacancies in positions in the classified service shall be filled by the appointing authority by the appointment of a person whose name is certified, within thirty days of certification. Certification shall be made upon request of the appointing authority therefor whenever a vacancy exists, and the appointing authority, in his discretion, determines that such vacancy shall be filled, and the name of an applicant for such vacancy is eligible for certification. Vacancies may be filled by promotion as follows: (1) Selection by the department head from classified employees in the department or (2) selection of the classified employee making the highest grade on a test given by the personnel board upon request of the department head or appointing authority. Vacancies not filled by promotion shall be filled from eligibility list established by the personnel board for original employment. Upon request of the appointing authority, the personnel board shall certify to the appointing authority five names which rank highest on the employment eligibility list for the employee classification desired. Certification of the five highest ranked names on said employment list shall be made by the personnel board to the appointing authority, who shall make a final selection of the person to be appointed to fill such vacancy. If after making a reasonable effort, it should prove impossible for the appointing authority to locate any of the persons so certified or should it become known to the board that any person so certified is not willing to accept the position, the appointing authority may request that additional names be certified until the appointing authority has available to him a list from which to make the appointment containing the aforesaid authorized number of persons, all of whom are available for such appointment and willing to accept the position. In the event that the list certified to the appointing authority contains fewer than the authorized number of available and willing persons as aforesaid from which to make a selection, the appointing authority, in his discretion, may choose from the remaining certified names, make a temporary appointment, or make no appointment. In the event that

there does not exist an employment list which the board deems to be appropriate from which to fill the vacancy, the board shall prepare a list within the reasonable time after receipt of the request of the appointing authority that eligibility be certified. Provided, however, nothing herein contained shall be construed as preventing an appointing authority, in his discretion, from withdrawing his request for the aforesaid certification, either before or after such certification has been made in response to his request therefor. Whenever a person has been certified to and rejected by an appointing authority three times, the board may remove the name of such person from the eligible list on which his name appeared. A person shall be deemed to have been so rejected by an appointing authority when a vacancy is filled from an eligible list on which his name appeared and such person was not selected to fill the vacancy.

**Section 14. PROBATION.** Except as provided in Sections 2 and 3, to acquire permanent status in a position in the classified service so long as such position remains in the classified service, employees shall be subject to a period of probation. The regular period of probation shall be six (6) months; provided, however, the board may adopt rules and regulations specifying a longer period of probation for a designated class or classes, or for extension of the probation period for any individual probationary employee, but no probationary period may extend beyond twelve (12) months. The work and conduct of employees with a probationary status shall be subject to close scrutiny and evaluation. An employee retained beyond the end of the probationary period shall have permanent status in the position in which he was so retained so long as that position remains in the classified service if, but only if, the appointing authority files a written statement with the personnel board affirming the fact that the services of the employee have been found to be satisfactory.

**Section 15. ABSENCES: HOURS OF WORK.** Rules shall be adopted in the manner hereinbefore provided prescribing hours of work and the conditions and length of time for which leaves of absence with pay and leaves of absence without pay may be granted. These shall cover such matters as vacancies, holidays, sick leaves, leaves for military service, and leaves granted so that the employee can seek election to public office.

**Section 16. LAY-OFF OF EMPLOYEES.** Any employee may be separated from his position by being laid off. Reduction in employees shall be in the following order: (1) temporary employees; (2) probationary employees; (3) employees having permanent status in the position in the classified service.

**Section 17. DISMISSAL, DEMOTION AND SUSPENSION OF EMPLOYEES:** Any employee may be dismissed, suspended without pay or demoted by his appointing authority for, but not limited to, any violation of the provisions of this act or whenever the good of the service will be served thereby or the employee's work, performance, conduct on or off the job, or insubordinate attitude so warrants; provided, however that no employee may be suspended without pay for more than 10 working days at any one time or for more than 10 working days in any one year; and provided further, that no employee shall be dismissed, suspended without pay or demoted for political considerations other than those enumerated in Section 21 hereof. Any person appointed to a position who has secured his certification therefor through fraud shall be removed by his appointing authority and shall not thereafter be eligible for examination for or appointment to any position except by unanimous permission of the board. The appointing authority shall promptly report to the board in writing the fact and extent of all disciplinary action taken by said appointing authority against employees holding positions in the classified service.

**Section 18. PROCEDURE FOR PROTESTING CERTAIN DISCIPLINARY ACTION.** An employee shall have the right to protest any disciplinary action taken against him by his appointing authority; provided, however, an employee serving by temporary appointment and an employee having probationary status shall have no right to protest any such disciplinary action, unless such employee had permanent status in some other position at the time he was appointed to his present position. Any employee desiring to protest any disciplinary action directed against him by his appointing authority shall file a protest in writing with the board and with his appointing authority within not less than 7 days and not more than 30 days of the date at which the disciplinary action was taken and request a hearing before the board. Within 14 days after receipt of the protest, his appointing authority shall file with the chairman of the board and mail to the employee by certified mail a statement specifying the charges against such employee on which the disciplinary action was based. Upon the filing of such charges, the said chairman shall call a meeting of the board to be held within 30 days after the filing of such charges to hear such protest, and shall forthwith give notice to the employee and his appointing authority of the time and place of such meeting. The board shall have the authority to continue the hearing from time to time as may be necessary. In preparing for and conducting such hearing, the chairman and secretary of the board shall each have the power to administer oaths, and to subpoena and require the attendance of witnesses and the production of books, documents and accounts pertaining to the subject under investigation.



Subpoenas issued as herein provided shall be served (and the fees and allowances for the service thereof shall be the same) as is provided by law for the services of subpoena issued by the circuit court of Geneva County, Alabama. Said fees and allowances in connection with the service of such subpoena issued at the request of the appointing authority or the board shall constitute reasonable and necessary expenses of the board. Such subpoena issued at the request of the employee has deposited sufficient security with such sheriff or other officer as will guarantee payment of such fees and allowances for such service. In the event any person is duly summoned to appear and testify or produce evidence, or both, before the board, and such person refuses to attend or testify or produce such evidence, or any of them, in obedience to such summons, the board shall have the right to invoke the aid of the circuit court at law. In such event, and upon proper showing by the board to the court, the court shall issue, or caused to be issued, an order or subpoena requiring such person to appear before the board and produce all evidence and give all testimony relating to the issue within his knowledge. Any person failing to obey any such summons by either of said officers of the board without good cause, to be determined by the court, may be punished by the court in the same method as is provided by law for contempt of the court and any person failing to obey such order or subpoena of the court, may be proceeded against by the court as is by law provided in the case of contempt of such court. In addition, any employee of Geneva County who fails to obey any of such orders or subpoenas may be disciplined as provided in Section 17.

At the hearing the employee and his appointing authority shall each have the right to be represented by counsel. Such hearing shall be governed by rules of practice and procedure adopted by the board, and in conducting such hearing, the board shall not be bound by the technical rules of evidence. No informality of procedure in the conduct of such hearing shall invalidate any decision made by the board. At the conclusion of the hearing, the board shall render a decision (a) affirming the disciplinary action taken if it is reasonably satisfied from the evidence offered at the hearing that the disciplinary action taken was lawful or was not too severe; or (b) reversing the action of the appointing authority if it is reasonably satisfied from such evidence that the disciplinary action taken was not lawful; or (c) modifying the disciplinary action taken and prescribing the proper penalty if it is reasonably satisfied from such evidence that the employee was subject to some disciplinary action, but the penalty imposed was too severe. If the board's decision reduces the severity of the disciplinary action taken against the employee, the board, in its decision, may provide that the employee shall be reinstated with or without pay. A copy of the board's decision shall become effective immediately upon such filing, and it shall become final 7 days

thereafter unless reversed or modified by the personnel board. The personnel board may be represented by its attorney, or an attorney designated by the personnel board, and said attorney may perform such duties as the board may direct and require. Any compensation paid said attorney shall be paid as provided in Section 22 hereof.

**Section 19. APPEAL TO THE COURT.** Decisions of the board may be enforced by mandamus, injunction, or other appropriate proceedings. The employee, the appointing authority, or the Geneva County Commission may, within 21 days after the decision of the board is rendered, appeal to said court from any decision of the board affirming, imposing or refusing to affirm or impose dismissal or demotion as disciplinary action by filing notice of such appeal with the court and causing a copy of such notice to be served on the appointing authority and any member of the board. Upon the filing of such notice, the board shall file with the court a certified record of the proceeding had before it with respect to the appeal, and its decision in the matter. The appeal shall be heard at the earliest possible date by said court sitting without a jury on the issues made before the board and the trial in said court shall be de novo. No bond shall be required for such an appeal and the cost of such appeal shall be taxed against the unsuccessful party or as the judge may direct. At the conclusion of such hearing the court may affirm, reverse, or modify the board's decision, or remand the case for further proceedings before the board as the court in its discretion shall deem best. If the order of the court is that the employee shall be reinstated with pay, such pay shall be the amount earned by the employee during the period next preceding the taking of the disciplinary action in question. An appeal may be taken from any judgment of said court of the Court of Appeals or Supreme Court as provided by law.

**Section 20. RECORDS TO BE MAINTAINED BY BOARD.** The board shall maintain adequate records of its proceedings, of its own official acts, the examination record of every candidate, and the employment record of every employee.

**Section 21. POLITICAL ACTIVITIES PROHIBITED.** No person holding a position in the classified service shall seek or attempt to use any political endorsement in connection with any appointment to a position in the classified service. No person holding a position in the classified service shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person or for any consideration. No employee holding

a position in the classified service shall be a candidate for nomination or election to any public office, shall take part in any political campaign in support of or opposition to the election of any candidate for a county elective office, except to exercise his right as a citizen privately, to express his opinion and to cast his vote, unless on authorized leave of absence for such purpose. No person in the employment of the county, whether classified or unclassified, shall be denied the right to participate in city and state political activities to the same extent as any other citizen of the State of Alabama, including endorsing candidates and contributing to campaigns of his choosing. All persons in the employment of the county shall have the right to join local political clubs and organizations, and state or national political parties. All persons in the employment of the county shall have the right to publicly support issues of public welfare, circulate petitions calling for and in support of referendums, and contribute freely to those of his choosing. Any person holding a position in the classified service who violates any provision of this section may be disciplined by dismissal, suspension without pay, or demotion as provided in Section 17 of this act.

**Section 22. EXPENSES OF BOARD.** The governing body shall make necessary appropriations from the general fund to pay the reasonable and necessary expenses incurred by the board and its members in the administration of this act, including the expense of defending any litigation brought against the board or its members in connection with action taken in the performance of their duties in the administration of this act.

**Section 23. RIGHT OF GOVERNING BODY.** Nothing herein shall be construed as restricting the right of the governing body (1) to refuse employment and prohibit the further service of any person who is a member of an organization which is opposed to the basic purpose of local self-government; and (2) to increase or decrease proportionately the compensation of all employees; or (3) to use independent contractors for performance of work or the rendering of services by the county.

**Section 24. SEVERABILITY.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 25. REPEALER.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 26.** This act shall become effective October 1, 1985.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-588

H. 955—Rep. Blake

## AN ACT

Relating to St. Clair County; to require the installation and maintenance of an improved system of indexing and recording documents affecting the title to property and other documents recorded in the Office of the Judge of Probate; to provide the collection and disposition of a special indexing and recording fee; and to provide that said system shall constitute official and permanent records in St. Clair County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply in St. Clair County. The purpose of this act is to facilitate the use of public records in property transactions in St. Clair County by providing for the installation of an improved system of indexing and recording of instruments and documents affecting the title to real and personal property that are recorded in the office of the Judge of Probate and for the indexing and recording of other instruments, documents and other use in the discretion of the Judge of Probate.

**Section 2.** The following words and phrases, including the plural of any thereof, whenever used in this act, shall have the following respective meanings:

(a) "Real Property Instrument" means and includes any instruments or documents affecting the title to real property that may now or hereafter be filed for record in the Probate Office pursuant to the applicable requirements of the laws of this state, including, but without limitation to, Section 12-13-43, Code of Alabama 1975, and all statutes providing for the filing and recording of notices or statements of liens of any kind, notices of judgment and plats or maps showing subdivisions of real estate.

(b) "General Property Instrument" means a real property instrument that affects the title to personal property as well as real property.

(c) "Personal Property Instrument" means any instrument or document affecting the title to personal property only (as distinguished from real property) that may be now or hereafter titled for record in the probate office, in accordance with the applicable requirements of the law of this state, including and particularly said Sections 34-4-50 and 35-4-90, Code of Alabama 1975.

(d) "Improved Indexing and Recording System" means a system of indexing and recording real property instruments and personal property instruments in the probate office and, in the discretion of the Judge of Probate, of indexing and recording other instruments

and documents, which system when completed, will consist of equipment necessary and suitable to prepare and index records.

**Section 2.** The Judge of Probate is hereby authorized to provide for the installation and thereafter for the maintenance of an improved indexing and recording system in the probate offices of the county. The initial installation of the improved indexing system shall include the following:

(a) The acquisition of the equipment provided for in the definition hereinabove set forth of an improved indexing and recording system;

(b) The establishment of procedures for the continued indexing, recording and filing of all instruments and records that will, after the effective installation date, constitute a part of the improved indexing and recording system;

(c) The initial installation of the improved indexing and recording system shall be performed by a person or persons, firm or corporation engaged in records management business and experienced in setting up county records; and such initial installation shall be supervised and inspected by a person who is experienced in handling records pertaining to abstracts and title. Following its installation in the county, the improved indexing and recording system shall be thereafter maintained in the county and all real property instruments, general property instruments and personal property instruments and other documents and records herein provided to constitute a part of said system, that may be thereafter filed for record in the probate office of the county shall be in accordance with the aforesaid improved indexing and recording system. Each real property instrument and each personal property instrument shall be operative as a record from the time of its delivery to the Judge of Probate of the county, in accordance with the provisions of existing law, including particularly Section 12-13-43 of the Code of Alabama 1975.

**Section 3.** Following the effective installation date, real property instruments, personal property instruments, and other documents and records provided herein to be indexed with computer-generated indexes to be filed in binders, and shall constitute the official records of such instruments for the purpose of Section 12-13-43, Code of Alabama 1975.

**Section 4.** All provisions of the laws of Alabama with respect to the recording of real property instruments, personal property instruments, general property instruments, miscellaneous instruments, and other instruments and records that may constitute part of an improved indexing and recording system installed hereunder (including but without limitation to the provisions of Section 12-13-43 of the Code of Alabama 1975, and the provisions of all statutes respecting

the filing and recording of notices or statements of liens of any kind, notices of Lis Pendens, declaration of claims of exemption, certificates of judgment, or plats or maps showing subdivisions of real estate) that are not inconsistent with the provisions of this act shall continue in effect with respect to an improved indexing and recording system installed hereunder, the recording of instruments therein, and the duties of the Judge of Probate with respect thereto.

**Section 5.** The initial installation costs shall be paid entirely out of the said special indexing and recording fees. Nothing contained in this section, however, shall prohibit the county from using any part of its own funds for the purpose of paying the cost of operating and maintaining, after the initial installation, any improved system installed pursuant to the provisions of this act.

**Section 6.** Thirty days after the date this act becomes applicable to St. Clair County, a special indexing and recording fee of \$2.00 shall be paid to the Judge of Probate with respect to each real property instrument and each personal property instrument that may be filed for record in the office of said Judge of Probate and for the recording of other instruments and documents in the probate office in the discretion of the Judge of Probate of the county, and, on and after such date, no such instrument shall be received for record in the office of said Judge of Probate unless the said special indexing and recording fee of \$2.00 is paid thereon. Said special indexing and recording fee shall be in addition to all other fees, taxes and other charges required by law to be paid upon the filing for record of any real property instrument or personal property instrument, and for the recording of other instruments and documents in the probate office in the discretion of the Judge of Probate of the county. All special indexing and recording fees so collected shall be paid into a special fund of the Judge of Probate. These funds shall be used at the discretion of the Judge of Probate for an improved indexing and recording system and/or other equipment, maintenance and services necessary for the improvements of the office of Judge of Probate and other county operations. Said fee to be adjusted from time to time by the St. Clair County Commission.

**Section 7.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 9.** This act shall become effective immediately upon

its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-589

H. 857—Rep. Box

### AN ACT

Relating to Mobile County; to exempt from all county, local, or municipal ad valorem taxes all property owned and used by The Woman's Club of Saraland, Inc., a nonprofit corporation, retroactive to October 1, 1983.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All property owned by The Woman's Club of Saraland, Inc., a nonprofit corporation, and used by said organization is hereby exempted from all county, local, or municipal ad valorem taxation, retroactive to October 1, 1983.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-590

H. 85—Rep. Flowers

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the City of Troy, in Pike County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the City of Troy in Pike County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in

addition to the lands now included, all of the following territory, to-wit:

SW-1/4; and S-1/2 of NW-1/4, Section 1, Township 9 North, Range 21 East, Pike County, Alabama, LESS AND EXCEPT the following parcels:

Parcel No 1:

A lot or parcel of land lying in the NW-1/4 of the SW-1/4, Section 1, Township 9 North, Range 21 East, Pike County, Alabama, being more particularly described as follows: Commencing at a point on the West line of said NW-1/4 of the SW-1/4, said point being 160 feet South of the Northwest corner of the said NW-1/4 of the SW-1/4, running thence North 88 deg. 02 min. East 529.5 feet to the West side of a public road (40 feet wide); thence along the West side of said road, South 21 deg. 54 min. East 121.8 feet; thence South 29 deg. 54 min. East 162.4 feet to property of John Swindall; thence South 67 deg. 21 min. West 694.0 feet to the West line of said NW-1/4; thence North 1 deg. 43 min. West 503.2 feet to the point of beginning, containing 5.28 acres, more or less.

Parcel No. 2:

A lot or parcel of land lying on the West side of a public road (unpaved) in the NW-1/4 of the SW-1/4 of Section 1, Township 9 North, Range 21 East, Pike County, Alabama, being more particularly described as follows: Commencing at the Northwest corner of the said NW-1/4 of the SW-1/4 and running thence North 88 deg. 02 min. East 470.8 feet along the North line of the said NW-1/4 of the SW-1/4 to the West side of said public road; thence South 21 deg. 54 min. East 19.2 feet along said public road; thence South 88 deg. 02 min. West 306.7 feet; thence South 21 deg. 54 min. East 151.0 feet; thence South 88 deg. 02 min. West 222.8 feet to the West line of the said NW-1/4 of the SW-1/4; thence North 1 deg. 43 min. West 160.0 feet to the point of beginning, containing 0.84 acres, more or less.

Parcel No. 3:

A lot or parcel of land lying on the East side of a public road in the NW-1/4 of the SW-1/4 of Section 1, Township 9 North, Range 21 East, Pike County, Alabama, and being more particularly described as follows: Commencing at the Northeast corner of the said NW-1/4 of the SW-1/4 and running thence South 0 deg. 19 min. East 93.6 feet to the North line of property of George Law; thence South 58 deg. 00 min. West 510.0 feet along the lot of George Law; thence North 29 deg. 54 min. East 210.0 feet along lot of Jerry Mobley; thence North 56 deg. 53 min. East 325.0 feet to the North line of the said NW-1/4 of the SW-1/4; thence North 88 deg. 02



min. East 247.7 feet along the North line of said forty to the point of beginning, containing 2.2 acres, more or less.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-591

H. 604—Rep. Flowers

### AN ACT

To amend Section 17-4-156, Code of Alabama 1975, relating to the meeting of the boards of registrars, so as to increase Pike County's board of registrars meeting days.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 17-4-156, Code of Alabama 1975, is hereby amended to read as follows:

“§ 17-4-156.

“(a) Each board of registrars in the counties of Autauga, Bibb, Blount, Chambers, Cherokee, Clarke, Clay, Cleburne, Conecuh, Coosa, Crenshaw, Dallas, Escambia, Geneva, Hale, Henry, Lamar, Lawrence, Limestone, Lowndes, Marengo, Perry, Sumter, Talladega, Tallapoosa, Walker, Washington and Wilcox may meet a maximum of 120 session days each fiscal year beginning October 1, 1984, and thereafter; each board of registrars in the counties of Barbour, Butler, Covington, Fayette, Greene, Lauderdale, Lee, Marion, Pickens, Pike, Randolph, St. Clair and Winston may meet a maximum of 168 session days each fiscal year beginning October 1, 1984, and thereafter; each board of registrars in the counties of Dale, Franklin, Houston, Marshall, Bullock and Macon may meet a maximum of 216 session days each fiscal year beginning October 1, 1984, and thereafter; and the boards of registrars in the counties of DeKalb, Elmore, Jackson, Russell and Shelby may meet a maximum of 120 registration days each fiscal year beginning October 1, 1984, and thereafter. On any day on which the full board does not meet and the courthouse of the county is open for business, excepting Saturdays, there shall be in attendance at the courthouse one member of the board to receive applications, administer oaths and perform clerical duties of the board. Upon

unanimous agreement of the board, one member may be designated full-time chief clerk to effectuate the provisions of this subsection. If no unanimous agreement be reached, then those members wishing to participate in such daily attendance shall alternate working days.

“(b) In the counties of Chilton, Choctaw, Coffee, Colbert, Cullman and Monroe, the board of registrars may meet a maximum of 168 session days each fiscal year beginning October 1, 1984, and thereafter. On any day on which the full board does not meet and the courthouse of the county is open for business, excepting Saturdays, there shall be in attendance at the courthouse one member of the board of registrars to receive applications, administer oaths and perform the clerical duties of the board. Upon unanimous agreement of the board, one member may be designated full-time chief clerk to effectuate the provisions of this subsection. If no unanimous agreement be reached, then those members wishing to participate in such daily attendance shall alternate working days.

“(c) The board of registrars of Etowah county may meet a maximum of 150 session days each fiscal year. On any day on which the full board does not meet and the courthouse of the county is open for business, excepting Saturdays, there shall be in attendance at the courthouse one member of the board of registrars to receive applications, administer oaths and perform clerical duties of the board. Upon unanimous agreement of the board, one member may be designated full-time chief clerk to effectuate the provisions of this subsection. If no unanimous agreement be reached, then those members wishing to participate in such daily attendance shall alternate working days.

“(d) The counties of Baldwin, Calhoun, Jefferson, Madison, Mobile, Montgomery, Morgan and Tuscaloosa, which are now operating under the provisions of local bills, shall be exempted from the provisions of this section. Provided, however, that where the words ‘each year’ are used in such local acts such words shall mean ‘each fiscal year beginning October 1, 1984, and thereafter.’

“(e) The actual number of session days shall be determined by a quorum of the board according to the needs of the county.

“(f) As many as 25 session days may be used for special registration sessions (i.e., those sessions held away from the courthouse in the several precincts of the county or sessions held on Saturday or between the hours of 5:00 P.M. and 9:00 P.M.), which special sessions are hereby authorized. Notice of any special session scheduled by the board must be given at least 10 days prior to the session by (1) bills posted at three or more public places in each election precinct affected, if the session involves precinct visits, and (2) advertisement once a week for two successive weeks in a newspaper published in

the county or by radio or television announcements on a local station, or both."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-592

H. 721—Rep. Faulk

### AN ACT

Relating to Crenshaw County; to authorize the county commission to increase their expense allowance and provide for the source of said funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Crenshaw County Commission is hereby authorized to increase the expense allowance of the members of said commission up to an additional three hundred dollars (\$300.00) per month. Said action shall require a majority vote of all members of the commission. Said expense allowance shall be in addition to all compensation, salary and expense allowances presently paid. The expense allowance shall be paid out of either the county road and bridge fund or the county general fund, whichever fund the county commission deems fiscally proper.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-593

H. 555—Rep. Venable

### AN ACT

Relating to Coosa County; to provide for a special recording fee on documents filed in the office of the judge of probate; and to prescribe the use thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Coosa County, a special recording fee of \$4.00 shall be collected by the judge of probate, with respect to each real property instrument and each personal property instrument that may be filed for record in the office of said judge of probate and for the recording of other instruments and documents in the probate office in the discretion of the governing body of the county, and no such instrument shall be received for record in the office of said judge of probate unless the said special recording fee of \$4.00 is paid thereon. Then said special recording fee shall be in addition to all other fees, taxes and other charges required by law to be paid upon the filing for record of any real property instrument or personal property instrument, and for the recording of other instruments and documents in the probate office.

**Section 2.** The special recording fee of \$4.00 as provided for by Section 1 of this act shall be deposited into the county general fund.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time 2:00 P.M.

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Act No. 85-594

H. 1008—Reps. McMillan and Penry

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the city of Bay Minette in Baldwin County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the city of Bay Minette in Baldwin County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

Beginning at the Southeast corner of the Southwest Quarter, Section 8, Township 2 South, Range 3 East; thence North along the East boundary of the Southwest Quarter which is also the present

Bay Minette City Limits, a distance of 2145 feet more or less; thence West a distance of 1111.3 feet; thence South a distance 825 feet; thence West a distance of 208.7 feet to the Northeast corner of the Southwest Quarter of the Southwest Quarter; thence South along the East boundary of the Southwest Quarter of the Southwest Quarter a distance of 1320 feet more or less to the Southeast corner of the Southwest Quarter of the Southwest Quarter; thence West along the South boundary of the Southwest Quarter a distance of 775 feet more or less; thence South a distance of 1300 feet more or less to the Northwest corner of Rhodes Subdivision; thence Southeasterly along the West boundary of Rhodes Subdivision a distance of 1200 feet more or less to the Southwest corner of Rhodes Subdivision; thence Northeasterly along the South boundary of Rhodes Subdivision and the Northeast extension thereof a distance of 2100 feet more or less to the East boundary of the Northwest Quarter Section 17, Township 2 South, Range 3 East; thence North along the East boundary of the Northwest Quarter Section 17 which is also the present Bay Minette City Limits, a distance of 1630 feet more or less to the point of Beginning.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-595

H. 562—Reps. Ford and Junkins

### AN ACT

Relating to Etowah County; to provide for an expense allowance for the Commission Chairman and each County Commissioner and to provide for its retroactive effect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Etowah County, the Chairman to the County Commission shall receive an expense allowance of \$7,500.00 per year. Said expense allowance shall be in addition to all other expense allowances and compensation paid to the Chairman. Said money shall be paid in the same manner as other compensation is paid to the Chairman and shall be paid out of the county general fund.

**Section 2.** The County Commissioners of the Etowah County Commission shall receive an expense allowance of \$7,500.00 per year. Said expense allowance shall be in addition to all other expense

allowance and compensation paid the County Commissioners. Said money shall be paid in the same manner as other compensation is paid to the County Commissioner and shall be paid out of the county general fund.

**Section 3.** Said expense allowance as provided by this act shall be retroactive to January 1, 1985.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not effect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-596

H. 631—Rep. Albright

### AN ACT

Relating to Madison County; providing further for costs and charges in the circuit and district courts of said county in all cases wherein a defendant or juvenile is charge with a violation of the Alabama Uniform Controlled Substances Act; providing for the use of the monies to be derived therefrom and placing certain restrictions thereon.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In all criminal and juvenile delinquency cases in the circuit and district courts of Madison County wherein the defendant or the juvenile is charge with a violation of the Alabama Uniform Controlled Substances Act the clerk of the respective court shall charge and collect a fee of \$10.00 in addition to all other costs and charges now or hereafter provided.

**Section 2.** The monies derived from the charges herein prescribed shall be remitted to the Madison County Commission and be deposited to a fund which shall be designated as "The Madison County Juvenile Court Drug Abuse Prevention Fund." All funds so deposited shall be disbursed for the following purposes:

- a. conducting drug and alcohol abuse education programs;
- b. conducting drug and alcohol abuse counseling programs;
- c. reimbursing any non-profit organization approved by the juvenile court of said county for services performed for the juvenile court in providing drug and alcohol educational programs; drug and

alcohol counseling services; and drug detection programs and systems, including urine analyses, relating to children under the jurisdiction of the juvenile court.

**Section 3.** Monies paid into the fund provided for in Section 2 of this act shall be disbursed as directed by the Madison County Juvenile Court Advisory Board pursuant to vouchers issued by its chairman and authorized by said board.

**Section 4.** No monies paid pursuant to this act for drug and alcohol abuse counseling shall be paid to anyone other than a psychologist, a licensed professional counselor or a psychiatrist. No monies paid hereunder shall be paid to or for the benefit of any employee or elected official of the State of Alabama or Madison County.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-597

H. 671—Rep. Johnson (RG)

### AN ACT

To extend, alter and rearrange the boundary lines and corporate limits of the City of Sylacauga, Talladega County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines and corporate limits of the City of Sylacauga, Talladega County, Alabama, be and the same are hereby extended, altered and rearranged so as to include within the corporate limits of the said City all of the following described territory: Commence at the Northeast corner of the Southeast One-Fourth of the Northeast One-Fourth of Section 4, Township 21 South, Range 4 East and proceed South 11 deg. 14 min. 20 sec. West along a fence for a distance of 134.92 feet to an iron pin; thence South 85 deg. 22 min. 40 sec. East along a fence for a distance of 190.13 feet to

an iron pin on the Westerly right-of-way line of Alabama Highway No. 21, said point being at Hwy. sta. 775 plus 83.17; thence South 19 deg. 00 min. West along the West right-of-way line of said highway for a distance of 800 feet to the point of beginning of property herein described; from said point of beginning continue South 19 deg. 00 min. West along said right-of-way line for a distance of 833.29 feet to a point on the North right-of-way line of a gravel road; thence North 63 deg. 30 min. 40 sec. West along the northerly right-of-way line of said road for a distance of 478.74 feet, to an iron pin on the Northerly right-of-way line of said road thence North 77 deg. 52 min. 40 sec. West along the northerly right-of-way line of said road for a distance of 42.28 feet to a point; thence North 22 deg. 37 min. 20 sec. East for a distance of 777.51 feet to a point; thence South 71 deg. 00 min. East for a distance of 467.51 feet to the point of beginning.

The above described property being situated in the Southeast One-Fourth of the Northeast One-Fourth and the Northeast One-Fourth of the Southeast One-Fourth of Section 4, Township 21 South, Range 4 East, Talladega County, Alabama, and contains 9.05 acres.

AND

Commence at the Northeast corner of the Southeast One-Fourth of the Northeast One-Fourth of Section 4, Township 21 South, Range 4 East, and proceed South 11 deg. 14 min. 20 sec. West along a fence for a distance of 134.92 feet to an iron pin and the point of beginning of property herein described; from said point of beginning proceed South 85 deg. 22 min. 40 sec. East along a fence for a distance of 190.13 feet to an iron pin on the Westerly right-of-way line of Alabama Highway No. 21, said point being at Hwy. Station 775 plus 83.17, thence South 19 deg. 00 min. West along the westerly right-of-way line of said highway for a distance of 800.00 feet to an iron pin; thence North 71 deg. 00 min. West for a distance of 500.4 feet to a point, thence North 22 deg. 37 min. 20 sec. East for a distance of 684.2 feet to a point; thence South 85 deg. 22 min. 40 sec. East for a distance of 281.8 feet to the point of beginning.

The above described property being situated in the Southwest One-Fourth of the Northwest One-Fourth, of Section 3, Township 21 South, Range 4 East and the Southeast One-Fourth of the Northeast One-Fourth of Section 4, Township 21 South, Range 4 East, Talladega County, Alabama and contains 8.12 acres.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** All sections of this ordinance are hereby declared to be severable. If any word, phrase clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid



by the judgment or decree of any court of competent jurisdiction, such constitutionality or invalidity shall not affect any of the remaining portions of this ordinance.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-598

H. 859—Rep. Albright

### AN ACT

Relating to Madison County, authorizing municipalities to fund group insurance plans for retired municipal employees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Madison County, any municipality is hereby authorized, in its discretion, to pay all or any part of the costs of group health insurance premiums for retired municipal employees. Any municipal governing body may, by ordinance, implement the provisions of this act.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-599

H. 972—Rep. Johnson (RG)

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the city of Sylacauga in Talladega County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the City of Sylacauga in Talladega County are hereby altered, rearranged and

extended so as to include within the corporate limits of said city, in addition to the lands now included, all of the following territory, to-wit:

Commence at the Southwest corner of Section 24, Township 21 South, Range 3 East, Talladega County, Alabama, as a point of beginning. From this beginning point proceed North  $1^{\circ} 45'$  East along the West boundary of said section for a distance of 622.1 feet; thence turn an angle of  $89^{\circ} 44'$  to the right and proceed North  $88^{\circ} 15'$  East for a distance of 456.36 feet; thence turn an angle of  $90^{\circ} 16'$  to the right and proceed South  $1^{\circ} 29'$  East for a distance of 1226.89 feet to a point on the North boundary of S.A.C.P. 4223-B (Talladega County Paved Road); thence proceed Northwesterly along the North boundary of said road for a distance of 500.0 feet to its point of intersection with the West boundary of Section 25, Township 21 South, Range 3 East, Talladega County, Alabama; thence proceed North along the West boundary of said Section 25 for a distance of 403.13 feet to the point of beginning, less and except power company right-of-way.

The above described land is located in the Southwest one-fourth of the Southwest one-fourth of Section 24, Township 21 South, Range 3 East, Talladega County, Alabama, and the Northwest one-fourth of the Northwest one-fourth of Section 25, Township 21 South, Range 3 East, Talladega County, Alabama, and contains 10.0 acres.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-600

H. 1040—Reps. Venable and Mikell

### AN ACT

Relating to Elmore County; authorizing the County Commission to provide clerical help for certain county officials; and repealing all conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Elmore County Commission shall provide compensation for deputies, clerks, assistants and secretaries for the offices of the Judge of Probate, Tax Assessor, Tax Collector and Sheriff in such number as may be necessary for the efficient conduct of such offices. Each officer shall appoint his own deputy, clerk, secretary

and assistant and shall fix their compensation, subject to the approval of the County Commission as to number and rate of pay.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-601

H. 694—Reps. Moore and Tanner

AN ACT

Relating to Shelby County; to authorize the county commission to provide for hospital and medical insurance of retired county employees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Shelby County may make provisions for coverage of retired county employees by health, hospitalization, surgical, and medical insurance, and may pay all or any part of the cost thereof or the premiums thereon from any funds in the county treasury not otherwise appropriated.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-602

H. 570—Rep. Nicholson

AN ACT

Relating to Walker County, to amend Act 1067, S. 938 of the 1973 Regular Session (Acts 1973, p. 1802) as amended relating to the county commission, so as to delete the requirement of certain additional meetings in each district of Walker County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 3 of Act 1067, S. 938 of the 1973 Regular Session (Acts 1973, p. 1802) as amended is hereby amended to read as follows:

“Section 3. The governing body of Walker County established by this act shall perform the same functions, exercise the same jurisdiction, authority and powers and perform the same duties prescribed by law for the governing body of Walker County when this act becomes effective, specifically including those duties enumerated in said Act No. 410 of the 1966 Special Session and those specified in Act No. 118 of the 1957 Regular Session, as such acts have been amended or supplemented. The president and associate members of the Walker County Commission, respectively, shall have and exercise the same powers, rights and authority, fulfill the same responsibilities and perform the same duties as those prescribed by law when this act becomes effective for the chairman and associate members of the county governing body of Walker County, including specifically those powers, duties and authority prescribed in said Act No. 410 of the 1966 Special Session and No. 118 of the Regular Session of 1957, as such acts have been amended or supplemented. In addition thereto the commission shall meet every Monday that is not a legal holiday at 9:30 A.M. in the county courthouse.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-603

H. 571—Rep. Nicholson

### AN ACT

Relating to Walker County; providing a monthly expense allowance for each member of the Walker County Commission; and providing that such monthly expense allowance shall be the total expense allowance and shall be paid from the county general fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each member of the Walker County commission shall be paid a total monthly expense allowance in the sum of \$500.00, which sum shall be paid from the county general fund in the same manner as salaries for county commission members.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-604

H. 572—Rep. Nicholson

AN ACT

Relating to Walker County; to provide that the county governing body may provide clerk-hire allowances to county offices and county officers and to repeal certain conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Relating to Walker County, notwithstanding any other local law to the contrary, the county governing body shall provide each county office and county officer with funds for clerks, deputies and assistance as it deems proper.

**Section 2.** The portions of Act 404, H. 221, 1966 Special Session, (Acts 1966, p. 548) and Act 24, H. 70, 1965 Regular Session, (Acts 1965, p. 230) which conflict with this act are hereby repealed and all other laws or parts of laws which conflict with this act are repealed.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-605

H. 574—Rep. Blake

AN ACT

Relating to St. Clair County; providing that the probate judge will be the chairman of the county commission and providing for a referendum.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In St. Clair County, effective at the expiration of the current term of office of the chairman of the county commission, the judge of probate shall become the chairman of the county commission and shall hold all powers and duties of the chairman as prescribed by law. In addition to his salary as provided for in Act No. 84-74, H. 330, 1984 Regular Session, (Acts 1984, p. 106), the judge of probate shall be entitled to receive the expense allowance provided for in Act No. 84-75, H. 331, 1984 Regular Session, (Acts 1984, p. 107), in his capacity as chairman of the county commission. Said salary and expense allowance provided for in Act 84-74 and Act 84-75 shall be the total compensation received by the probate judge and shall be in lieu of all other salary, emoluments, compensation or expense allowances provided by law.

**Section 2.** This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of St. Clair County who vote thereon at a referendum election held for such purpose. Said election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution and elections for other county officers and shall be held on the same day as any countywide election held in St. Clair County, next following final passage of this act. Notice of the election shall be given by the judge of probate of St. Clair County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows: "Do you favor the local law providing that the judge of probate shall be the chairman of the county commission? Yes ( ) No ( )." If a majority of the votes cast as the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The judge of probate of St. Clair County shall certify the results of the election to the secretary of state immediately after the returns have been certified.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law, except as otherwise herein provided.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-606

H. 687—Reps. Tanner and Moore

## AN ACT

Relating to Shelby County; prohibiting the sale of the Shelby County Medical Center without prior referendum approval of such sale by the qualified electors of the county and providing for holding such referendum election.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All laws to the contrary notwithstanding, no sale of the Shelby County Medical Center shall be consummated without prior referendum approval of the terms of such sale by the qualified electors of the county.

**Section 2.** The Shelby County Commission is hereby authorized and empowered to call a referendum election as may be necessitated by the provisions of Section 1 of this act. All costs of such election shall be paid from the county general fund. Notice of such election shall appear in a newspaper of general circulation in the county at least twice prior to the date of such election.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-607

H. 903—Rep. Nicholson

## AN ACT

To provide for an expense allowance for the circuit and district judges and the district attorney of the Fourteenth Judicial Circuit to be paid by the county comprising such circuit; to fix the amount and method of payment of such expense allowance; and to provide that no retirement contributions shall be deducted from the expense allowance.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to the salary paid to each of the circuit and district judges and the district attorney of the Fourteenth Judicial

Circuit by the state there shall also be paid to each of said officials an expense allowance in a sum equal to 30 percent of the salary paid each of said officials by the State of Alabama. Such expense allowance shall be paid out of the general fund of the county in equal monthly installments at the same time and in the same manner that the salaries of other county employees are paid. The expense allowance herein provided for shall be in lieu of any other salary supplement or expense allowance heretofore provided for by law to be paid by the county comprising such circuit.

**Section 2.** No retirement contributions shall be deducted from the expense allowance provided herein.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-608

H. 982—Reps. Sasser and Flowers

## AN ACT

Relating to law enforcement in Dale County; an act which fixes the fee for the issuance of pistol permits and regulates the disposition and use of such fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Dale County, the fee for issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Code of Alabama 1975, Section 13-6-155, shall be ten dollars, which shall be collected by the sheriff and deposited in any bank located in Dale County into a fund known and designated as the sheriff's fund. Such fund shall be drawn upon the sheriff and used exclusively for purposes of law enforcement and in the discharge of the sheriff's office as he sees fit.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.



**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-609

H. 1006—Rep. Flowers

### AN ACT

Relating to Pike County; providing further for an expense allowance for the county commission of said county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Pike County, each member of the county commission is hereby entitled to receive \$416.67 expense allowance per month. Said expense allowance shall be in addition to any and all other salary, expense allowance or compensation heretofore provided by law and shall be payable out of the general fund of the county.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-610

H. 1013—Rep. Flowers

### AN ACT

Relating to Pike County; to create the Troy-Pike County Lake Authority; and to provide for the composition and powers of said authority.

*Be It Enacted by the Legislature of Alabama.*

**Section 1.** There is hereby created the Troy-Pike County Lake Authority in Pike County, Alabama, to establish, develop, operate, promote, preserve, and maintain certain bodies of water in Pike County.

**Section 2.** Said authority shall be composed of seven members. Three members shall be appointed by the Pike County Commission

and three members shall be appointed by the governing body of the City of Troy. Said six members shall appoint a seventh member at the organizational meeting of the authority. All members shall serve terms of two years. Vacancies shall be filled by the original appointing authority for the remainder of the unexpired term. Every two years the appointing authority shall appoint members for the next two-year term. Members may be reappointed. Members shall not serve at the pleasure of the appointing authority. The authority shall select a chairman and a vice-chairman. The authority shall establish its own parliamentary procedures and shall adopt such rules, regulations or bylaws as may be necessary to carry out its function. Members of the authority shall receive no compensation or other emolument for their service on the authority.

**Section 3.** The authority shall have power to acquire land but shall not have the power of eminent domain. The authority shall have to acquire financing. The authority may spend all governmental appropriations granted for the use of the authority and may expend funds donated or contributed for its support. The authority shall have, in addition to those powers set forth specifically, all powers necessary or convenient to effect the purposes for which it has been established. Provided, however, the authority shall have no power to commit the governing body of Pike County or the City of Troy, without written approval of the affected governing body.

**Section 4.** The authority may solicit and accept donations, contributions and gifts of money and property. All gifts made to the authority shall be exempt from taxation. All property, money, income, resources and activities of the authority shall likewise be exempt from taxation.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-611

H. 729—Rep. Johnson (RG)

## AN ACT

To authorize the Talladega County Board of Health to designate the services rendered by the Talladega County Health Department for which a reasonable fee may

be charged. The Talladega County Board of Health is further required to set a maximum fee for each service. The Talladega County Health Department may charge and collect such fees. No citizen shall be deprived of any service because that person is unable to pay.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Talladega County Board of Health shall designate the services rendered by the Talladega County Health Department for which a reasonable fee may be charged and shall set the maximum allowable fee to be charged for each service.

**Section 2.** The Talladega County Health Department shall be authorized to charge and collect such fees. All fees collected shall be in addition to any and all federal, state and local appropriations. Any fees collected shall be processed in accordance with the recommendations of the State Examiners of Public Accounts.

**Section 3.** No citizen shall be denied any service because that person is unable to pay. Talladega County Board of Health may establish a sliding fee scale based on ability to pay.

**Section 4.** This act shall not apply to nor affect any fees otherwise authorized, set and collected under state, local or federal law or regulation.

**Section 5.** All fees collected pursuant to this act are hereby appropriated to the Talladega County Health Department which collected such fees.

**Section 6.** The provisions of this act are severable. If any part of this act is declared to be invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This act shall become effective immediately upon passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-612

H.J.R. 345—Rep. Warren

## HOUSE JOINT RESOLUTION

EXTENDING THE COST AND EXPENSE ALLOWANCE  
FOR THE LEGISLATIVE FORESTRY STUDY COMMITTEE.

WHEREAS, the Legislative Forestry Study Committee, established by the Alabama Legislature, has had many meetings, hearings and its members have conducted an exhaustive study; and

WHEREAS, it is in the best interest of the Alabama Legislature to have this committee do additional studies and research into the area of its responsibilities; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is hereby allocated an additional sum sufficient to cover the costs and expense allowances authorized for the committee, not to exceed \$7,500, which shall be paid from any funds appropriated for the use of the Legislature.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-613

H. 155—Reps. Marietta, Hettinger,  
Trammell, Buskey (John),  
and Escott

### AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Chiropractic Examiners as provided in Sections 34-24-140 through 34-24-172 of the Code of Alabama 1975, with certain modifications; to amend Sections 34-24-140, 34-24-141, 34-24-161 and 34-24-162, so as to increase the membership and its composition; to authorize the board to employ certain investigators, attorneys or agents; to require the board to publish, at cost, a directory of chiropractors; to require issuances of licenses; to provide for reciprocal licensing standards; to provide for lost or changed-name licenses; and to provide for professional signs.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is declared that pursuant to the Alabama Sunset Law, Sections 41-20-1 through 41-20-16, Code of Alabama 1975, as amended, the Sunset Committee entered upon its duties and recommends the continuance of the Board of Chiropractic Examiners created and functioning pursuant to Sections 34-24-140 through 34-24-172, Code of Alabama 1975, with the additional recommendations for statutory changes of the board as set out in Section 3 hereof.

**Section 2.** The existence and functioning of the Board of Chiropractic Examiners, created pursuant to sections 34-24-140 through 34-24-172 of the Code of Alabama 1975, are hereby continued, and such Code sections are hereby expressly continued.

**Section 3.** Sections 34-24-140, 34-24-141, 34-24-161, and 34-24-162 of the Code of Alabama 1975, are hereby amended to read as follows:

“§ 34-24-140.

“(a) There is hereby created and established a state board of chiropractic examiners. The board shall be composed of seven members, each of whom shall be: a resident of Alabama who has resided in this state for at least two years; a graduate of a chartered chiropractic school or college, which required actual attendance in the school as a prerequisite to graduation therefrom; currently engaged in the practice of chiropractic and have been engaged in such practice in this state for a period of at least two years and of good moral character. Not more than three members of the board shall be graduates of the same chiropractic school or college. The present members of the Board of Chiropractic Examiners shall serve out their appointed terms.

“By June 15, 1985, or as soon as practical, the Board of Chiropractic Examiners shall call a caucus in Congressional Districts 1, 2, 3 and 7. These districts will nominate members to be submitted to the Governor, who will name one member from each of two congressional districts, immediately, and name one member from each of the two remaining congressional districts as soon as vacancies occur on the Board of Chiropractic Examiners.

“The first two appointees will be appointed for a term ending January 1, 1987. Following this, the terms of appointment will be staggered for a period of three years

“The Alabama State Board of Chiropractic Examiners shall call a caucus annually in June of resident licensed chiropractors in each congressional district that will have an upcoming vacancy occurring on the board, and shall notify the licensed chiropractors of each congressional district at least thirty days prior to the caucus, announcing the time and place of the caucus. All nominees' names will be submitted to the Governor and he will select from this list.

“Whenever a vacancy occurs on the board, whether by expiration of the term, death or resignation of a member or other cause, the vacancy shall be filled in the same manner as the original appointments are made. Before appointing any member of the board, the governor shall satisfy himself that the appointee is of high character and standing and possesses the other qualifications prescribed in this section.

“(b) The Board may employ investigators, inspectors, attorneys and any other agents and employees and assistants as may from time to time be necessary, and may use any other means necessary to bring about and maintain a rigid administration and enforcement of state and federal law.

“(c) The board shall publish annually a directory listing all persons licensed to practice chiropractic in Alabama. Copies of the directory shall be made available from the executive secretary at cost,

which cost shall be estimated and set from time to time by resolution of the board.”

“§ 34-24-141.

“Upon the expiration of the respective terms of the seven members appointed for the terms designated in section 34-24-140, members of the board shall be appointed for a term of three years beginning with date of appointment, it being the intent and purpose of this article that the members of the board shall serve for staggered terms of three years each. The governor shall have the power to remove from office any member of the board for the neglect of any duty required by this article, for incompetency or for unprofessional conduct, or upon sufficient proof to the governor of the inability, misconduct or such conduct as in the discretion of the governor is unbecoming a member of the board. Vacancies on the board by reason of death, resignation or otherwise shall be filled by appointment by the governor for the unexpired term in the manner prescribed in section 34-24-140. Before taking office, the members of the board shall take and file with the secretary of state the constitutional oath of office required by section 279 of the Constitution of Alabama.”

“§ 34-24-161.

“(a) All examinations shall be in writing and upon the following subject: symptomatology, physical diagnosis, neurology, hygiene and sanitation, chiropractic orthopedy, nerve tracing and adjusting as taught by standard chiropractic schools or colleges and spinography. A certificate of qualification shall be issued to the state licensing board for the healing arts for each applicant examined who shall correctly answer 75 percent of all questions asked; if any applicant shall fail to answer correctly 75 percent of the questions on any branch of such examination, he or she shall not be entitled to a certificate of qualification.

“(b) Upon completion of all requirements for licensure an applicant shall be issued a license. Each license shall be dated and numbered in the order of issuance and shall be signed by the executive secretary and the president of the board.

“(c) Replacement licenses: (1) Any licensee whose license is lost or destroyed may be issued a replacement license upon making application to the board. Such application must be accompanied by an affidavit setting out the facts concerning the loss or destruction.

“(2) Name change. An licensee whose name is changed by marriage or court order may surrender his/her license and apply for a replacement license.

“(3) The fee for any replacement license shall be not more than \$50.00, the exact amount to be established by the board.

“(d) Each licensed chiropractor who is actively engaged in practice or who holds himself out as a chiropractor shall place or cause to be placed in a conspicuous place at the entrance of his office or place in which he practices a sign in intelligible lettering not less than one inch in height containing the name of the chiropractor immediately followed by the recognized abbreviation indicating the professional degree held by the chiropractor, and containing immediately below the chiropractor’s name, in equal size lettering, the word ‘CHIROPRACTOR.’ The intent of this requirement is that the licensee’s office be clearly identified by name and profession.”

“§ 34-24-162.

“With respect to applicants for licensure by reciprocity in Alabama:

“(a) Any applicant who has a currently valid license in another state may be partially or fully exempted from the Alabama board examination based on his/her examination performance and licensure in the other state provided the applicant has taken written examinations in four or more of the seven subjects tested on the Alabama board examination and has made a raw score of 75% or more in at least four of the subjects tested on the Alabama board examination.

“(b) Any applicant who is licensed in another state and who has passed written examinations in that state on all seven of the subjects tested on the Alabama board examination with raw score of 75% or better shall be entirely exempt from the Alabama board examination.

“(c) Any applicant who is currently licensed in another state and who has passed written examinations in that state on at least four but fewer than seven of the subjects tested on the Alabama board examination with a raw score of 75% or better shall be exempt from the Alabama board examination in those subjects previously passed.

“(d) Any applicant who meets the requirements of paragraph (1) (c) above and who is also currently licensed to practice chiropractic in some state other than the state which qualified the applicant for partial exemption under paragraph (1) (c) shall be exempt from the Alabama board examination in the one or more remaining subjects tested on the Alabama examination which were previously passed or a written examination with a raw score of 75% or better in the second state.

“(e) Applicants applying for full or partial reciprocity must meet all requirements for licensure other than the Alabama board examination as specified in this rule.

“(f) The fee for full or partial exemption by reciprocity shall be \$50.00. This fee is in addition to the application fee specified by the board under the provisions of Rule 190-X-2-.02.

“With respect to licensure in another state by reciprocity:

“Any licensee who seeks to be licensed in another state by reciprocity on the basis of his Alabama license may request certification upon the payment of a fee not to exceed \$50.00, the exact amount to be established by resolution of the board.”

**Section 4.** The legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2 and 3 hereof.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-614

H. 735—Rep. Harvey

## AN ACT

Relating to Blount County; altering the Blount County Commission district line between District Three and District Four, so as to place Oneonta in one beat or precinct.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall apply only to Blount County.

**Section 2.** The district line between Blount County Commission District 3 and District 4 is altered, rearranged and extended, so as to incorporate Oneonta, Beat 36, in one beat or precinct, and is hereby described herein, to-wit:

Beginning at a point on the west section line of Section 7, Township 12 South, Range 2 East where the Little Warrior River intersects said section line; thence in an easterly direction along the Little Warrior River to a point in Section 5, Township 12 South,



Range 2 East where the Calvert Prong of the Little Warrior River intersects the Little Warrior River; thence in a Southerly direction along the Calvert Prong of the Little Warrior River to a point on the east section line of Section 8, Township 12 South, Range 2 East where the Calvert Prong of the Little Warrior River intersects the said east section line; thence South along the said east section line to the northeast corner of Section 17, Township 12 South, Range 2 East; thence west to the northwest corner of the NW 1/4 - NE 1/4 of Section 17, Township 12 South, Range 2 East; thence South along the 1/2 mile line to the Southeast corner of the SE 1/4 - SW 1/4 of Section 17, Township 12 South, Range 2 East, thence west to the Southwest corner of said Section 17; thence South along the west section line of Section 20, Township 12 South, Range 2 East to the Northwest corner of the NW 1/4 - SW 1/4 of Section 20, Township 12 South, Range 2 East, the city limits of the city of Oneonta; thence east along the said city limits to the east section line of Section 20, Township 12 South, Range 2 East; the east boundary of the city limits of the city of Oneonta; thence south along the East boundary of the said city limits to the Northeast corner of Section 8, township 13 South, Range 2 East, the Southeastern corner of the city limits of the city of Oneonta, thence west to the Northwest corner of Section 8, Township 13 South, Range 2 East, the district line between District 3 and District 4 as it is now known.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-615

H. 734—Rep. Harvey

## AN ACT

Relating to Blount County; authorizing branch banking.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** After the effective date of this act any bank which is authorized by law to do a general banking business in Blount County may, with the written consent of the State Department of Banks, open, establish, and operate branch banks, branch offices or places for doing a banking business anywhere within the county, any other provision of law to the contrary notwithstanding.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-616

H. 696—Rep. Laird

AN ACT

Relating to Randolph County; to provide that the sheriff shall be entitled to the allowances payable by the state for feeding prisoners; to provide that the provisions of this act shall be retroactive to January 18, 1983.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Randolph County, the sheriff shall be entitled to keep and retain the allowances payable by the state, counties or municipalities for feeding prisoners.

**Section 2.** The provisions of this act shall be retroactive to January 18, 1983, and all actions taken by the sheriff in accordance with the provisions of this act are hereby validated and confirmed.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-617

H. 680—Reps. Fuller and Laird

AN ACT

Relating to Chambers County; authorizing the county commission to provide a certain additional expense allowance for the sheriff to be paid from the county general fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The county commission of Chambers County, Alabama, is hereby authorized and empowered to pay the sheriff an expense allowance in the amount of two hundred dollars (\$200.00) per month from the county general fund. Such expense allowance shall be in addition to any salary and allowances heretofore provided by law for such sheriff.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-618

H. 656—Rep. Mathis

### AN ACT

Relating to the salary of the Geneva County Superintendent of Education; establishing in an index range for such salary parallel to the current salary for teachers holding the same academic degree, certification level and experience; providing for the Geneva County Board of Education to set such salary.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Geneva County Board of Education is authorized to set the salary of the Superintendent of Education, at the next term of office and thereafter, at an index range between 1.5% to 1.9% of the then current salary schedule for teachers in Geneva County holding the same academic degree, or degrees, certification level and related experience.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-619

H. 496—Rep. Turner

### AN ACT

Relating to Mobile County; to provide for the salary of the Tax Assessor of Mobile County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Tax Assessor of Mobile County shall receive a salary to be set at \$42,500 per year payable in installments in accordance with the existing policy of the Treasurer of Mobile County. The Tax Assessor's salary as adjusted under this act shall be separate and apart from any allowance or emoluments of office other than present salary now being received. The Tax Assessor of Mobile County shall receive no other salary increases during the six year term of office beginning October 1, 1985.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-620

H. 334—Rep. Harvey

#### AN ACT

Relating to Blount County; to provide that all county commissioners shall serve full time; providing for compensation; and providing for effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The positions of county commissioner and county commission chairman of Blount County shall be full time positions and the holder of any such position shall not hold a second job or be involved in any part time work. Such commissioners shall receive compensation for serving as full time officers in accordance with the minimum allowable by state law.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-621

H. 912—Rep. Laird and Fuller

#### AN ACT

Relating to Chambers County; to provide for the mailing addresses of the grantees to appear on all conveyances of real property recorded in the probate office of such county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The probate judge of Chambers County shall not receive for record or permit the recording of any instrument in which the title to real property is conveyed, unless such instrument has endorsed on it a printed, typewritten or stamped statement, stating the mailing address of the grantee, or contains a statement of such addresses in the body of the instrument.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-622

H. 915—Rep. Harvey

### AN ACT

Relating To Blount County; to authorize the Board of Health of said County to fix a schedule of fees for services rendered pursuant to the duties with which the Board is charged and to provide for the approval of such fee schedule by the County Commission of Blount County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Board of Health of Blount County may fix a schedule of fees which shall cover the actual cost or a portion thereof involved in the performance of services rendered pursuant to the duties, functions and programs required by law or by regulation or of the County or State Board of Health. Any fee schedule fixed pursuant to this act shall be effective upon approval of the County Commission of Blount County, Alabama.

**Section 2.** The Blount County Board of Health is hereby authorized to promulgate rules and regulations necessary and proper for the administration of this act. Such regulations shall include but not be limited to the furnishing of services without charge to indigent residents, or persons of said county, and matters pertaining to payment of said fee for personal health services permits and inspections.

**Section 3.** All fees collected pursuant to this act are recurring and hereby appropriated or reappropriated to the County Health Department for the continued operation of said services and programs.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-623

H. 1002—Reps. Zoghby, Marietta,  
and Buskey (James)

### AN ACT

To amend Act No. 85-229, H. 526, 1985 Regular Session, which provides for a new form of government for any Class 2 municipality, so as to further provide for the composition of the districts for the new form of government.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 13 of Act No. 85-229, H. 526, 1985 Regular Session, is hereby amended to read as follows:

“Section 13. The council shall include seven members who shall be known and elected as district council members. Such district council members shall be elected from districts which shall be, as near as practicable, of equal population according to the last federal decennial census. The seven districts shall be as follows:

District 1 shall consist of:

In Mobile Division,

Mobile City: Census Tract 6 Blocks 101-104 only; Census Tracts 7.01, 7.02, 8, 26, 27; Census Tract 34.01, except Blocks 109, 111, 114, 119; Census Tract 34.02 p, Blocks 101-128, 131, 132 only; Census Tract 39.01 p; Census Tract 39.02 p; Census Tract 61 p, Block 212 only; Census Tract 49 p; Census Tract 43 p, Blocks 313 and 401 only;

District 2 shall consist of:

In Mobile Division,

Mobile City: Census Tracts 1, 2, 3, 4.01, 4.02, 5; Census Tract 6, except Blocks 101-104; Census Tract 9.01, Blocks 108-115, Block 119, Block Group 2, Blocks 301, 309, 312, 319; Census Tract 9.02, Block Group 1 and 2; Census Tract 10.01; Census Tract 10.02, Blocks 102-113, 115, 116, Blocks 202-205, 208-216, 302-305, Block Group 5;

Census Tract 12.01 p; Census Tract 12.02, Block Group 1, Blocks 201-213, Block 229, Blocks 244-250, Blocks 906-924; Census Tracts 12.99, 38.01, 38.02 p, 38.99, 43 p, Blocks 115 p and 201 p only; Census Tracts 44 p, 45 p, 52 p, 53 p, 54 p, 56 p;

District 3 shall consist of:

In Mobile Division,

Mobile City: Census Tract 9.03; Census Tract 10.02, Blocks 101, 114, 201, 206, 207, 217, 301, Blocks 306-312, Block Group 4; Census Tracts 11, 12.02, except Block Group 1, Blocks 201-213, 229, 244-250, 906-924; Census Tracts 13.01, 13.02, 14, 15.01, 15.02, 16; Census Tract 17, Block Group 2 only; Census Tract 18, Block Group 1 only; Census Tract 23.02; Census Tract 24, Block Group 1, Block Group 2, Blocks 301-303, Blocks 311, 312, 401, 402, 404;

District 4 shall consist of:

In Mobile Division,

Mobile City: Census Tract 17, Block Group 1, Block Group 3; Census Tract 18, Block Group 2, Block Group 3; Census Tracts 19.01, 19.02, 20, 21, 22, 23.01, 30, 31;

District 5 shall consist of:

In Mobile Division,

Mobile City: Census Tract 9.01, Blocks 101-104, 117, 118, Blocks 302-308, 315, 317, 318; Census Tract 9.02, Block Group 3 only; Census Tract 24, Blocks 305-310, Blocks 403, 404-412, Block Group 5, Block Group 6; Census Tracts 25.01, 25.02, 28, 29, 32.01, 33.01; Census Tract 33.02, Block Group 4, Blocks 401-404 only;

District 6 shall consist of:

In Mobile Division,

Mobile City: Census Tracts 32.02, 32.03, 35.02; Census Tract 36.03, except Blocks 204-208, Blocks 214-220; Census Tracts 37.01, 37.02; Census Tract 68 p, Block 230 p only;

District 7 shall consist of:

In Mobile Division,

Mobile City: Census Tract 33.02, Block Groups 1, 2, 3, 5, Blocks 406, 407, 408; Census Tract 34.01 p, Blocks 109, 111, 114, 119; Census Tract 34.02 p, Blocks 129-130; Census Tracts 34.03, 34.04, 34.05, 34.06, 35.01; Census Tracts 36.01, 36.02; Census Tract 36.03, Blocks 204-208, Blocks 214-220; Census Tract 61 p, Blocks 977 p and 978 p.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-624

H. 1004—Reps. Fuller and Laird

### AN ACT

To alter or rearrange the boundary lines of the City of Lanett, Chambers County, Alabama, so as to include within the corporate limits of said City all territory now within such corporate limits and also certain other territory contiguous thereto, in Chambers County, Alabama; and to provide for a referendum election on the provisions of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Lanett, Chambers County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Lanett and in addition thereto the following described territory, to-wit:

Commencing at the intersection of the northwesterly margin of Alabama State Highway No. 50 and the west section line of Section 35, Township 22 North, Range 28 East, Chambers County, Alabama for a POINT OF BEGINNING, said point being the southwest corner of that property as shown on the map or plat of Sub-Division Number Two of part of the W. E. Barrow Estate, recorded in Map Book 2, Page 76, in the Office of the Judge of Probate of Chambers County, Alabama.

FROM SAID POINT OF BEGINNING: Thence run North 00°50' West along the section line dividing Section 34 on the west and Section 35 on the east, 1556.4 feet to a point;

THENCE, run North 01°21' West, along said section line, 566.3 feet to a point, said point being the northwest corner of the Southwest Quarter of said Section 35;

THENCE, run North 87°02' East along the East-West 1/2 section line of said Section 35, 1491.5 feet to a point;

THENCE, run North 86°29' East, along said 1/2 section line, 1777.6 feet to a point;

THENCE, run North 86°54' East, along said 1/2 Section line 1140.3 feet to a point on the northwesterly margin of South 8th Avenue;



THENCE, run South 35°32' West along said northwesterly margin, 241.3 feet to a point;

THENCE, run South 38°07' East and along the line dividing Lot 12 on the southwest and Lot 13 on the northeast in Block D of the Plat of Subdivision of property of the R. M. Pearce Estate, as recorded in Map Book 2, at Page 1, in the Office of the Judge of Probate of Chambers County, Alabama, 260.8 feet to a point being the southwest corner of said Lot 13 in said Block D;

THENCE, run North 51°25' East along the southeasterly lot lines of Lots 13, 14, 15, 16 and 17A in said Block D, 400.0 feet to the southeast corner of Lot 17A in said Block D, said point being in Moore's Creek;

THENCE, run in a southeasterly direction long the run of Moore's Creek, 111.9 feet, more or less, to a point;

THENCE, run North 07°03' West 277.5 feet to a point on the southwesterly margin of a city street;

THENCE, run South 49°25' East along said margin and continuing South 49°25' East, 545.0 feet, more or less, to a point on the northwesterly margin of Alabama State Highway No. 50;

THENCE, run South 68°13' West along said northwesterly margin, 905.0 feet to a point;

THENCE, run South 21°47' East, 10.0 feet to a point;

THENCE, run South 68°13' West along said northwesterly margin, 4670.3 feet to a point and the original POINT OF BEGINNING.

The above described property is situated and located in the Northeast Quarter and in the South One-Half of Section 35, Township 22 North, Range 28 East, Chambers County, Alabama, and contains a total of 142.6 acres, more or less.

The following described properties are hereby exempt from the provisions of this act and shall not be included as property to be annexed into the City of Lanett:

Lots No. 48, 49, 50, 51, 52, 104, 105, 106, 107 and 108; W. E. Barrow Estate Subdivision No. 2; Section 35, Township 22 North, Range 28 East; and

Lot No. 56, of W. E. Barrow Estate Subdivision No. 2; and A parcel of land fronting 150 feet on the North margin of the Lanett and LaFayette Highway, more fully described as follows: to-wit: Begin at an iron pin located at the intersection of the North and South Section line running between Sections 34 and 35 in Township 22, Range 28, and the North margin of the Lanett and LaFayette

Highway; thence East along the North margin of said Highway for 100 feet to an iron pin for a corner and starting point of the parcel to be described; thence with a M.B. of North 2° West for 150 feet to an iron pin for a corner; thence with a M.B. of North 68° East for 150 feet to an iron pin for a corner; thence with a M.B. of South 2° East for 150 feet to an iron pin for a corner and starting point; being located in the Southwest 1/4 of Section 35, Township 22, Range 28; and Lots No. 112, 113, 114 and 115 of W.E. Barrow Estate Sub-division No. 2; all located in Section 35, Township 22, and Range 28 in Chambers County, Alabama.

**Section 2.** The provisions of this act shall become operative only if approved by a majority of the qualified electors residing in the above described land area voting in a referendum election to be called by the city council of the City of Lanett within 60 days from the passing of this act. Notice of the election shall be given by the City Council by publication for two successive weeks before the day set for the election.

On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the provisions of Act No.\_\_\_\_\_, H.\_\_\_\_\_, Acts of Alabama 1985 Regular Session, which proposes to extend the boundaries of the City of Lanett to include certain property described in said act? Yes ( ) No ( ).”

If a majority of the vote cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The city clerk shall notify the Secretary of State of the results of the election.

**Section 3.** That this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-625

H. 1018—Rep. Lindsey

### AN ACT

Relating to Cherokee County; authorizing the county commission to levy and collect a one percent sales tax paralleling the state sales tax provided for in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4, Code of Alabama 1975, providing for the collection of such tax by the state department of revenue; providing for distribution

and use of the proceeds; prescribing penalties and fixing punishment for violation of this act; and providing that the terms of this act shall not become effective unless approved by the electors of Cherokee County at a referendum election held for such purposes.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall only apply to Cherokee County.

**Section 2.** All words, terms, and phrases as defined in Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, providing for the levy of a state sales tax shall, wherever used in this act, have the same meanings respectively ascribed to them in said sections, except where the context herein clearly indicates a different meaning. In addition, the following words, terms, and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

“State sales tax statutes” means Sections 40-23-1, 40-23-2, 40-23-3 and 40-23-4 of the Code of Alabama 1975, as amended, which levy a certain retail sales tax, and include all statutes, including amendments to said sections, which expressly set forth any exemptions from the computation of the tax levied by said sections and all other statutes which expressly apply to, or purport to affect, the administration of said sections and the incidence and collection of the tax imposed therein;

“State sales tax” means the tax imposed by the state sales tax statutes;

“Month” means the calendar month;

“County” means Cherokee County.

**Section 3.** The Cherokee County Commission is hereby authorized to levy and impose a one percent sales or gross receipts tax upon the sales of all tangible personal property sold in Cherokee County, Alabama.

There are exempted, however, from the provisions of this section and from the computation of the amount of the tax imposed in this section, the gross receipts of any business and the gross proceeds of all sales which are presently exempted under the state sales tax statutes from the computation of the amount of the state sales tax.

**Section 4.** The sales taxes authorized to be levied in Section 3 of this act shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the months in which the tax accrues. All taxes levied in this act shall be paid to and collected by the state department of revenue at the same

time and along with the collection of the state sales tax. On or prior to the due dates of the tax herein levied each person subject to such tax shall file with the state department of revenue a report or return in such form as may be prescribed by the department, setting forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all such sales and gross receipts of all such business transactions. Such report shall also include such other items of information pertinent to the said tax and the amount thereof as the state department of revenue may require. Any person subject to the tax levied may defer reporting credit sales until after their collection, and in the event such person shall so defers reporting them, such person shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report. All reports or returns filed with the state department of revenue under this section shall be available for inspection by the Cherokee County Commission, or its designated agent, at reasonable times during business hours.

**Section 5.** Each person engaging or continuing within Cherokee County in a business subject to the tax levied in Section 3 of this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer on account of said sale or admission. It shall be unlawful for any person subject to the tax levied to fail or refuse to add on the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount herein required to be so added to the sale or admission price and collected from the purchaser, and it shall likewise be unlawful for any person subject to said tax to refund or offer to refund all or any part of the amount so collected or to absorb or advertise directly or indirectly the absorption or refund of said tax or any portion thereof.

**Section 6.** The tax authorized to be imposed by this act shall constitute a debt due Cherokee County and may be collected as provided by law. The said tax, together with interest and penalties with respect thereto, shall constitute and be secured by a lien upon the property of any person from whom said tax is due or who is required to collect said tax. All of the provisions of the revenue laws of this state which apply to the enforcement of liens for license taxes due to this state shall apply fully to the collection of the tax herein levied, and the state department of revenue, for the use and benefit of Cherokee County shall collect such tax and enforce this act and shall have and exercise for such collection and enforcement all rights and remedies that this state or the department has for collection of the state sales tax. The state department of revenue shall have full authority to employ such special counsel as it deems necessary from time to time to enforce collection of the tax levied by this act, and

to otherwise enforce the provisions of this act, including any litigation involving this act; and the department shall pay such special counsel such fees as it deems necessary and proper from the proceeds of the tax collected by it for Cherokee County.

**Section 7.** All provisions of the state sales tax statutes with respect to payment, assessment, and collection of the state sales tax, making of reports and keeping and preserving records with respect thereto, penalties for failure to pay the tax, the promulgation of the rules and regulations with respect to the state sales tax, and the administration and enforcement of the state sales tax statutes, which are not inconsistent with the provisions of this act when applied to the tax authorized to be levied in Section 3 of this act shall apply to the county tax levied under this act. The state commissioner of revenue and the state department of revenue shall have and exercise the same powers, duties and obligations with respect to the county tax levied under this act that are imposed on such commissioner and department, respectively, by the state tax statutes. All provisions of the state sales tax statutes that are made applicable by this act to the county tax levied under this act and to the administration and enforcement of this act are hereby incorporated herein by reference and made a part hereof as if fully set forth herein.

**Section 8.** The state department of revenue shall charge Cherokee County for collecting the sale tax levied under this act such amount or percentage of total collections as may be agreed upon by the commissioner of revenue and the Cherokee County Commission, but such charge shall not, in any event, exceed ten percent of the total amount of the sale tax collected in said county under this act. Such charge for collecting such sale tax may be deducted each month from the gross revenues from such sale tax before certification of the amount of the proceeds thereof due Cherokee County for that month. The commissioner of revenue shall pay into the state treasury all tax collected under this act, as such tax is received by the department of revenue, and on or before the first day of each successive month (commencing with the month following the month in which the department makes the first collection hereunder) the commissioner shall certify to the state comptroller the amount of tax collected under the provisions of this act and paid by him into the state treasury for the benefit of Cherokee County during the month immediately preceding such certification. Provided, however, that before certifying the amount of the tax paid into the state treasury for the benefit of Cherokee County during each month, the commissioner may deduct from the tax collected in said month the charge due the department for the collection of the tax for the county. It shall be the duty of the comptroller to issue his warrant each month payable to the county treasurer of Cherokee County in his official capacity in an amount equal to the amount so certified by

the commissioner of revenue as having been collected for the use of the county. All revenues arising from the taxes herein authorized to be levied shall be distributed as follows: 40% to the County Highway Department Fund for roads and bridges maintenance, construction and repair; 20% to volunteer fire departments for fire protection to be divided equally among all certified volunteer fire departments that are active in the Cherokee County volunteer fire department association for a minimum of one year; 20% for the operation and maintenance of the Cherokee County jail system; and 20% to the county board of education to be used for educational purposes.

**Section 9.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 10.** This act shall be effective and operative only if it shall have been approved by a majority of the qualified electors of Cherokee County who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held on the same day as the next county-wide election held at least 30 days or later next following final passage of this act. Notice of the election shall be given by the judge of probate of Cherokee County, which notice shall be published once a week for three successive weeks before the day of the election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law passed at the 1985 Regular Session of the Legislature which imposes a one percent sales tax for Cherokee County the proceeds of which shall be distributed as follows: 40% to the county highway department fund; 20% to the certified volunteer fire departments; 20% to the Cherokee County jail system; and 20% for educational purposes?

Yes ( )      No ( ).”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no legal effect. The judge of probate of Cherokee County shall certify the results of the election to the Secretary of State and to the state revenue department immediately after the returns have been certified.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

Act No. 85-626

H. 1047—Rep. Laird

## AN ACT

To alter or rearrange the boundary lines of the City of Ashland, Clay County, Alabama, so as to include within the corporate limits of said City all territory now within such corporate limits and also certain other territory contiguous thereto, in Clay County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Ashland, Clay County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Ashland and in addition thereto the following described territory, to-wit:

The Southeast One-Fourth of the Southeast Quarter of the Northeast Quarter and the Northeast One-Fourth of the Northeast Quarter of the Southeast Quarter of Section 29;

The South Half of the Northwest Quarter and the North Half of the Southwest Quarter, and the Southeast Quarter of the Southwest Quarter, and the Southwest Quarter of the Southeast Quarter, of Section 28;

The Northeast Quarter of the Northwest Quarter, and the North Half of the Northeast Quarter, and the Southeast Quarter of the Northeast Quarter, of Section 33;

All in Township 20 South, Range 8 East, containing 420 acres, more or less; situated in Clay County, Alabama.

**Section 2.** That this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-627

H. 1067—Rep. Laird

## AN ACT

Relating to Randolph County; providing for the county commission to reimburse the office of probate judge or license commissioner for any monetary loss resulting from the performance of official duties for errors or mistakes made in good faith, not

to exceed a certain maximum per annum; and providing such funds shall be payable from the general fund of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Randolph County Commission shall reimburse the office of the probate judge or license commissioner from the general fund of the county the amount of any monetary loss, not to exceed a total of thirty-five hundred dollars (\$3500) per annum, arising or caused by error, if the mistake or omission was caused without his personal knowledge, including loss arising from acceptance of worthless or forged checks, drafts, money orders or other written orders for money or its equivalent.

**Section 2.** It shall be the duty of the probate judge or license commissioner to insure that his employees exercise due care in performing their duties and to make a diligent effort to correct the error, mistake or omission and collect the amount subject to potential loss immediately upon becoming aware of the potential loss. This act shall not apply to any deliberate misuse or misappropriation of funds by said official or any clerk or employee of his office.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

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Act No. 85-628

H. 1069—Rep. Lindsey

### AN ACT

To impose a filing fee of Two (\$2.00) Dollars on certain instruments, documents, and papers filed for record in the office of the Probate Judge of Cherokee County, the funds collected therefrom to be used exclusively for the funding of the mental health program in Cherokee County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Probate Judge of Cherokee County will charge a fee of Two (\$2.00) Dollars for filing for record or for recording each and every instrument, paper, writing, document, or decree in



his office, including but not limited to, each real estate, warranty deed, deed/executive deed, subordinate agreement, agreement, land lease, partial release/release, affidavit, marriage license, official bond, plat, oath of office, bill of sale, custodian bond, declaration of trust, transfer, assignment, satisfaction, declaration of vacation, bond to indemnify, license pendens notice, order approving trustee bond, and excerpts of minutes.

**Section 2.** By the tenth (10th) of the month following collection, all funds so collected shall be paid by the Probate Judge into the treasury of Cherokee County and kept in a fund to be designated the Mental Health Fund. Expenditures from said fund shall be for the benefit and furtherance of the mental health program in Cherokee County, Alabama. The chairman of the County Commission or like official shall have the power to act for the County Commission or like governing body in the withdrawal and payment of monies from the Mental Health Fund.

**Section 3.** This act is cumulative. Nothing herein contained shall alter or change an existing law relating to charges and fees to be collected by the Probate Judge of Cherokee County.

**Section 4.** The provisions of this act are severable. If any section or provision of this act is declared to be unconstitutional or invalid, such declaration will not affect the constitutionality or validity of the remaining portions of the act.

**Section 5.** This act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-629

S. 707—Senator Holmes

### AN ACT

Relating to Calhoun County; providing for the compensation of certain county officials and providing for the Judge of Probate to be reimbursed for the actual expenses of preparing voter lists.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Beginning with the next term of office, in lieu of any other compensation or expense allowances now provided by law, certain officials of Calhoun County shall be entitled to annual salaries as follows:

Commissioner of Licenses

\$35,000.00

Coroner	\$12,200.00
Deputy Coroner	\$2,400.00
County Commission Chairman	\$40,000.00
County Commission Members	\$16,500.00
Judge of Probate	\$35,000.00
Sheriff	\$37,500.00
Tax Assessor	\$35,000.00
Tax Collector	\$35,000.00

Such salaries shall be paid in equal monthly installments from the county general fund.

**Section 2.** In addition to the annual salary provided for the Judge of Probate in Section 1, such official shall be reimbursed for actual expenses incurred in carrying out the duties of his office in the preparation of voter lists.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-630

S. 35—Senators Foshee and Covington

### AN ACT

To exempt vitamins, minerals and dietary supplements, which are used, sold, furnished, dispensed and prescribed by any physician licensed to practice medicine, chiropractor, orthodontist, and podiatrist, as defined in this act, in the performance of his professional services from any city, county and state sales tax.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any vitamins, minerals and dietary supplements, which are used, sold, furnished, dispensed and prescribed by any physician licensed to practice medicine, chiropractor, orthodontist,

and podiatrist in the performance of his professional services shall be exempt from any city, county and state sales tax. This exemption shall apply only to vitamins, minerals, and dietary supplements dispensed by prescription by the professionals listed in Section 1.

**Section 2.** The exemption provided for in Section 1 shall be in addition to any and all exemptions from sales tax provided for in Article 1 of Title 40, Revenue and Taxation, Code of Alabama, 1975, as last amended.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-631

S. 212—Senators Mitchem, Little, Drinkard, Bedford, Dixon, Smith (J), Bennett, Bedsole, Bishop, Parsons, Horn, Foshee, Sanders, Menton, Holmes, Denton, and Langford.

### AN ACT

To provide in addition to benefits now received, a retirement cost of living increase to all persons retired under the Teachers' Retirement System of Alabama and certain persons retired under the Employees' Retirement System of Alabama prior to October 1, 1984, provided that any person whose retirement under the Employees' Retirement System is based on service to a local board of education or a state supported institution of higher education who participated pursuant to §36-27-6, shall be entitled to the increase provided herein to provide that any person whose eligibility to receive Medicaid benefits would be impaired by the increase granted herein shall not be entitled to receive said increase; and to provide for the funding of the increases granted and the repeal of conflicting laws.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** (a) There is hereby provided, commencing October 1, 1985, to each person, whose effective date of retirement for purposes

of receiving benefits from the Teachers' Retirement System, is prior to October 1, 1984, and who is receiving an allowance therefrom, a cost of living increase of \$2 per month for each year of creditable service attained by said retired member.

(b) There is hereby provided, commencing October 1, 1985, to each person, whose effective date of retirement for purposes of receiving benefits from the Employees' Retirement System, is prior to October 1, 1984, and who is receiving benefits therefrom, a cost of living increase of \$2 per month for each year of creditable service attained by said retired member provided that only those retired members of the Employees' Retirement System whose participation in the system was based on §36-27-6 and whose employer at the time of his retirement was a local board of education or a state supported institution of higher education shall be eligible to receive the increase provided herein.

**Section 2.** (a) There is hereby appropriated from the Alabama Special Education Trust Fund to the Teachers' Retirement System of Alabama \$13,034,234, for the fiscal year beginning October 1, 1985, or such amounts as are necessary to carry out the provisions of this act as it relates to the Teachers' Retirement System.

(b) There is hereby appropriated from the Alabama Special Education Trust Fund to the Employees' Retirement System \$230,182, for the fiscal year beginning October 1, 1985, or such amounts as are necessary to carry out the provisions of this act as they relate to retired employees of local boards of education and state institutions of higher education who are retired under the Employees' Retirement System.

(c) Subsequent appropriations to the Teachers' and Employees' Retirement Systems shall be reduced to only the amount necessary to fund the benefit increases provided in Section one of this act, provided that the benefits provided herein shall continue from year to year only so long as the legislature shall continue to fund the cost of said increases.

**Section 3.** Any person who receives benefits under the Medicaid program and whose eligibility for such benefits would be impaired by the cost of living increase provided herein shall not be entitled to receive said increase. Any person who shall subsequently apply for benefits under the Medicaid program and such persons eligibility to receive benefits is impaired by the cost of living increase provided herein, shall not be entitled to receive said increase subsequent to the date that the member files application for benefits under the Medicaid program.

**Section 4.** The provisions of this act are supplemental. It shall be construed in pari materia with other laws regulating and providing

for the payment of retirement benefits to the retired members of the teachers's retirement system of Alabama and certain members of the employees' retirement system of Alabama; however, those laws or parts of laws which are in direct conflict or inconsistent therewith are hereby repealed.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect that part which remains.

**Section 6.** The provisions of this act shall become effective October 1, 1985, following its passage by the Alabama Legislature and approval by the Governor or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-632

S. 637—Senator Little

### AN ACT

To amend Section 16-48-12, Code of Alabama 1975, which provides for the duties of the police officers at Auburn University, so as to provide further for the powers of said officers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-48-12, Code of Alabama 1975, is hereby amended to read as follows:

“§16-48-12.

“(a) The president of Auburn University, with the approval of the board of trustees, is hereby authorized to appoint and employ suitable persons to act as police officers to keep off intruders and prevent trespass upon and damage to the property and grounds of the university. Such persons shall be charged with all the duties and invested with all the powers of police officers and may eject trespassers from the university buildings and grounds, and may, without a warrant, arrest any person guilty of disorderly conduct or of trespass upon the property of the university, or for any public offense committed in their presence, and carry them before the nearest district court or municipal court charged with the trial of such offenders, before whom, upon proper affidavit charging the offense, any person so arrested may be tried and convicted as in cases of persons brought before him on his warrant; and such officers shall have authority to summon a posse comitatus and may, with a warrant, arrest any person found upon or near the premises of the university charged with any public offense and take them before the proper officer.

“(b) The police officers provided for in this section shall cooperate with, and, when requested, furnish assistance to the regularly constituted authorities of the municipality of Auburn; and their jurisdiction and authority shall be coextensive with the corporate limits of the municipality.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-633

S. 705—Senator Hand

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Gulf Shores in Baldwin County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Gulf Shores in Baldwin County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory to-wit:

All that property known as the Fort Morgan Peninsula lying west of the City of Gulf Shores, south of the Intracoastal Canal and north of the Gulf of Mexico.

**Section 2.** This act shall be inoperative and void unless it shall have been approved by a majority of the qualified electors of Baldwin County as herein described whose vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held under the supervision of the probate judge. Notice of the election shall be given by the judge of probate of Baldwin County, which notice shall be published in a newspaper of local circulation once a week for three successive weeks before the day of election. The Baldwin County Commission is hereby specifically authorized to pay expenses of said election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Vote for one:

\_\_\_\_\_ Yes, I want to be annexed to the City of Gulf Shores.

\_\_\_\_\_No, I want to remain under the jurisdiction of the county governing body.”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The judge of probate of Baldwin County shall certify the results of the election to the secretary of state, the Baldwin County Commission and to the mayor of Gulf Shores immediately after the returns have been certified.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-634

S. 706—Senator Hand

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the town of Orange Beach in Baldwin County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the town of Orange Beach in Baldwin County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory to-wit:

#### AREA 1.

Beginning at the Southwest corner of Section 11, T9S, R4E; thence run North along the West boundary line of said Section 11, T9S, R4E, a distance of 4,400 feet, more or less, to the South bank of the Intracoastal Canal; thence run Easterly along said South bank of the Intracoastal Canal and the South shore of Wolf Bay, a distance of 23,000 feet, more or less, to the West boundary of the NE 1/4 of the NE 1/4, Section 5, T9S, R5E; thence run South along the West boundary of the NE 1/4 of the NE 1/4 and the SE 1/4 of the NE 1/4, Section 5, T9S, R5E, a distance of 1,330 feet, more or less, to the Southwest corner of the SE 1/4 of the NE 1/4; thence run East along the South boundary of the SE 1/4 of the NE 1/4, Section 5, T9S, R5E, a distance of 970 feet, more or less; thence run South 640 feet, more or less; thence run East, a distance of 175 feet, more

or less; thence run South 630 feet, more or less, to a point on the North boundary of the SE 1/4, Section 5, T9S, R5E; thence run West along said North boundary of the SE 1/4, Section 5, T9S, R5E, a distance of 1,200 feet, more or less, to the Northwest corner of said SE 1/4, Section 5, T9S, R5E; thence run South along the West boundary of the SE 1/4 of the SE 1/4, Section 5, T9S, R5E, a distance of 1,200 feet, more or less, to a point on the South boundary of Section 5, T9S, R5E; thence run West along said South boundary of Section 5, T9S, R5E, a distance of 3,830 feet, more or less, to the Southwest corner of said Section 5, T9S, R5E; thence run West along the South boundary of Section 6, T9S, R5E, a distance of 2,560 feet, more or less; thence run South 1,320 feet, more or less; thence run West 3,900 feet, more or less; thence run South 1,320 feet, more or less; thence run West 4,160 feet, more or less; thence run South 1,320 feet, more or less; thence run West 1,320 feet, more or less; thence run South 660 feet, more or less; thence run West 1,320 feet, more or less; thence run South 660 feet, more or less; thence run West 2,550 feet, more or less, to the Point of Beginning. Said area can be further described as that property bounded on the west by Gulf State Park, bounded on the north by the Intracoastal Canal, bounded on the east by the Town of Orange Beach and bounded on the south by the Gulf State Park.

## AREA 2.

Beginning at a point where the North shore of the Gulf of Mexico intersects the East boundary of lands belonging to the State of Alabama Department of Conservation and Natural Resources (Gulf State Park), said point being 1,550 feet, more or less, West of the East boundary line of Section 14, T9S, R4E; thence run North 950 feet, more or less; thence run East 200 feet, more or less; thence run North 1,320 feet, more or less; thence run East 2,650 feet, more or less, thence run North 660 feet, more or less; thence run East 1,320 feet, more or less; thence run North 630 feet, more or less; thence run East 2,760 feet, more or less; thence run North 1,320 feet, more or less, to the Northeast corner of Section 12, T9S, R4E; thence run East 5,230 feet, more or less to the Southeast corner of Section 7, T9S, R5E; thence run North 1,320 feet, more or less; thence run East 3,880 feet, more or less; thence run South 330 feet, more or less; thence run East 660 feet, more or less; thence run South 920 feet, more or less, to the North shore of the Gulf of Mexico; thence run Westerly along the said North shore of the Gulf of Mexico, a distance of 17,460 feet, more or less, to the Point of Beginning. Said area can further be described as that property bounded on the east by the Gulf State Park near the public beach area at the intersection of Alabama Highway 161 and Alabama Highway 182, bounded on the south by the Gulf of Mexico, bounded on the west by the Gulf



State Park near the Gulf State Park Beach Pavilion on Alabama Highway 182, bounded on the north by the Gulf State Park.

#### AREA 3.

Beginning at a point where the North right-of-way line of State Highway #182 intersects the West boundary of Section 9, T9S, R5E; thence run North along said West boundary of Section 9, T9S, R5E, a distance of 520 feet, more or less, to the Southwest corner of the NW 1/4 of the SW 1/4, Section 9, T9S, R5E; thence run East along said South boundary of said NW 1/4 of the SW 1/4, Section 9, T9S, R5E, a distance of 1,300 feet, more or less, to the Southeast corner of the said NW 1/4 of the SW 1/4, Section 9, T9S, R5E; thence run North along the East boundary of the said NW 1/4 of the SW 1/4, Section 9, T9S, R5E, a distance of 530 feet, more or less, to the South shore of Cotton Bayou; thence run Easterly along the South shore of Cotton Bayou through Perdido Pass and along the South shore of Old River to the East boundary line of the State of Alabama, a distance of 18,350 feet, more or less; thence run South along said State of Alabama's East boundary line, a distance of 1,000 feet, more or less, to the North shore of the Gulf of Mexico; thence run Westerly along the said North shore of the Gulf of Mexico through Perdido Pass to the West boundary line of Section 9, T9S, R5E, a distance of 19,700 feet, more or less; thence run North along the West boundary of Section 9, T9S, R5E, a distance of 600 feet, more or less, to the Point of Beginning. All the afore described lands shall be in ZONE 3, except those lands owned by the State of Alabama Department of Conservation and Natural Resources. Said area can be further described as that property bounded on the west by the Gulf State Park near the public beach area at the intersection of Alabama Highway 161 and Alabama Highway 182, bounded on the north by the southern shores of Cotton Bayou and Old River, bounded on the east by the Alabama-Florida State Line, bounded on the south by the Gulf of Mexico.

#### AREA 4.

That property bounded on the north by the Intracoastal Canal; bounded on the east by the Alabama-Florida State Line; bounded on the south by the northern shores of Bayou St. John, Terry Cove and Cotton Bayou; bounded on the west by Alabama Highway 161 excluding the present corporate limits of the Town of Orange Beach.

#### AREA 5.

Said ZONE 5 includes all that area known as Ono Island bounded to the North by Bayou St. John and Perdido Bay, and on the South by Old River lying in Baldwin County, Alabama.

**Section 2.** This act shall be inoperative and void in each area unless it shall have been approved by a majority of the qualified

electors of such area of Baldwin County as herein described who vote thereon at a referendum election held for such purpose. The election shall be held and conducted as nearly as may be in the same way as elections on amendments to the Constitution, and shall be held under the supervision of the probate judge. Notice of the election shall be given by the judge of probate of Baldwin County, which notice shall be published in a newspaper of local circulation once a week for three successive weeks before the day of the election. The Baldwin County Commission is hereby specifically authorized to pay expenses of said election. On the ballots to be used at the election, the proposition to be voted on shall be stated substantially as follows:

“Vote for one:

\_\_\_Yes, I want to be annexed into the town of Orange Beach.

\_\_\_No, I want to remain under the jurisdiction of the county governing body.”

If a majority of the votes cast at the election are affirmative votes, this act shall be in full force and effect immediately thereafter. If a majority of the votes cast are in the negative, the act shall have no further effect. The judge of probate of Baldwin County shall certify the results of the election to the secretary of state, the Baldwin County Commission and to the mayor of Orange Beach immediately after the returns have been certified.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-635

S. 585—Senator Menton

### AN ACT

Relating to Mobile County; to amend further Section 1 of Act No. 111, H. 419, Regular Session 1955 (Acts 1955, p. 356), which relates to the salary of the tax collector, so as to provide further for such salary.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 111, H. 419, Regular Session 1955 (Acts 1955, p. 356), is amended further to read as follows:

“Section 1. The tax collector of Mobile County shall be compensated on a salary basis. The tax collector shall be paid a salary

of forty two thousand five hundred dollars (\$42,500,00) per annum. Such salary shall be paid in twelve equal monthly installments in the manner and at the same time as salaries are paid to employees of that office."

**Section 2.** This act shall take effect at the commencement of the term of office of the tax collector of Mobile County which begins next after the passage and approval of this act.

This Act became a law under Section 125 of the Constitution on May 15, 1985 without approval by the Governor.

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Act No. 85-636

S. 584—Senator Mitchem

AN ACT

To provide for a supplemental appropriation to the Department of Agriculture and Industries from the agricultural fund for the period ending September 30, 1985, in the amount of \$400,000.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1985, there is hereby appropriated to the Department of Agriculture and Industries, out of monies in the agricultural fund, the sum of Four Hundred Thousand Dollars (\$400,000) which said appropriation shall be in addition to any and all other funds heretofore or hereafter appropriated.

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-637

S. 240—Senator Goodwin

AN ACT

To amend Section 36-22-63, Code of Alabama 1975, relating to the purchase of prior service credit for participation in the supernumerary sheriff's program, so as to extend the time within which such a purchase may be made.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-22-63, Code of Alabama 1975, is hereby amended to read as follows:

"§36-22-63.

"Any sheriff, serving on July 19, 1979, of any county of this state who elects to participate in the supernumerary sheriff's program shall receive service for supernumerary status for any time served as sheriff after July 19, 1979. Any sheriff, in order to receive service credit for prior service as a sheriff or law enforcement officer, shall pay into the county general fund an amount equal to the total contribution he would have made as a sheriff based on six percent of his current salary as sheriff for a period not to exceed five years or the time of prior service as sheriff whichever is lesser. any prior service credit must be purchased within two years of the effective date of this amendatory act. No sheriff shall be eligible to go on supernumerary status with less than five years of creditable service including prior service credit purchased as provided above."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-638

S. 23—Senator Dial

### AN ACT

To create and establish a Military Department Billeting Revolving Fund; to provide for a one-time appropriation to establish said fund; to provide for the methods of expending such funds for billeting purposes; to provide for the promulgation of procedures concerning operation of said billeting revolving fund by the Adjutant General; to provide for the collection of charges for such billeting so as to reimburse and replenish said revolving fund; and to provide that monies remaining in the Military Department Billeting Revolving Fund at the end of any fiscal year shall be encumbered and carried over from year to year.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created in the State Military Department a revolving fund for the payment of operating and maintaining quarters at Alabama National Guard training sites for senior officers and enlisted personnel.

**Section 2.** There is hereby appropriated and allocated to the State Military Department for said revolving fund a one-time sum of \$25,000 from the state general fund for payment of salaries, janitorial supplies, equipment, furnishings and other essential expenses to operate, maintain and enhance billeting facilities for troops utilizing the training site facilities.

**Section 3.** The said \$25,000 herein appropriated and allocated shall be designated as the Military Department Billeting Revolving Fund and shall be used only for the purpose of providing services, supplies, equipment and furnishings necessary to operate, maintain and enhance the senior officer and enlisted quarters at such training sites, and that said revolving fund shall, upon proper billing, be reimbursed by payments made thereto for use of said facilities by military members in accordance with applicable federal regulations and procedures promulgated and prescribed by the Adjutant General.

**Section 4.** The revolving fund hereby created shall remain in operation from year to year and shall be used solely and exclusively for the purpose of providing a method of payment for expenses associated with the operation, maintenance and enhancement of billeting facilities at Alabama National Guard training sites. Funds over and above those required for operating and maintaining the facilities may be used to procure equipment and furnishings to enhance the appearance and upgrade the facility. The Military Department Billeting Revolving Fund shall file with the State Executive Budget Office an annual Billeting Revolving Fund budget; however, profits above necessary operating and maintenance costs may be invested in equipment and furnishings after the tenth month of the fiscal year without regards to the budget projections. Procurement of equipment and furnishings shall be in accordance with state procedures and shall be picked up on state personal property records.

**Section 5.** The Revolving Fund hereby created by the one-time appropriation provided herein, and the receipts from charges for use of training site facilities shall be placed on deposit with the State Treasury and earmarked separately as the Military Department Billeting Revolving Fund. The funds provided herein and receipts for use of facilities shall not revert to the general fund at the end of any fiscal year but shall be encumbered and carried over from year to year.

**Section 6.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-639

S. 691—Senator Foshee

## AN ACT

Providing an additional expense allowance for the members of the county commission of Coffee County, the amount of which shall be determined by the amount of certain other compensation that may otherwise be provided by law for such members.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any other expense allowances heretofore provided by law for the members of the county commission of Coffee County, Alabama, each member of such commission is hereby entitled to and shall receive a monthly expense allowance not to exceed \$450.00. The exact amount of such additional allowance shall be determined, from time to time, by subtracting from said amount of \$450.00 the amount of any new additional monthly compensation, whether in the nature of salary, salary supplement or expense allowance, that may be provided by general law for such members. Such additional expense allowance shall be paid to such members in the usual manner from the county general fund.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective on the first day of the first month next following its passage and approval by the Governor or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on May 15, 1985 without approval by the Governor.

Act No. 85-640

S. 643—Senator Bedford

## AN ACT

Relating to Winston County; authorizing the levy of an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county; providing for the collection and enforcement of the tax, and appropriating the proceeds therefrom.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 1 through 7 and 10 of Act No. 873, House 1224 of the 1965 Regular Session (Acts 1965, page 1637) are hereby amended so as to read as follows:

“Section 1. The Winston County Commission is hereby authorized to impose upon every person, firm, or corporation who sells, stores, delivers, uses or otherwise consumes tobacco or certain tobacco products in Winston County a county privilege, license or excise tax in the following amounts:

“(a) Five cents (\$0.05) for each package of cigarettes, made of tobacco or any substitute therefor.

“(b) Two cents (\$0.02) for each cigar of any description made of tobacco or any substitute therefor.

“(c) Five cents (\$0.05) for each sack, can, package, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which is prepared in such manner as to be suitable for smoking in a pipe or cigarette.

“(d) Five cents (\$0.05) for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subsection (c) of this section.

“(e) Five cents (\$0.05) for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor.

“Said five cents (\$0.05) on other tobacco products, privilege, license or excise tax shall include the one cent (\$0.01) tobacco tax authorized by Act 873, House 1224 of the 1965 Regular Session.

“Provided, however, when the license tax hereby required to be paid shall have been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco and like tobacco products, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes and on each cigar.

“Section 2. Every person, firm, corporation, club, or association that sells or stores or receives for the purpose of distribution in Winston County any cigarettes, cigars, snuff, smoking tobacco and like tobacco products shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on

the consumer with the person, firm, corporation, club or association, who sells or stores or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, acting merely as agent for the collection of the tax. The dealer, storer, or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, on all price displays, signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products. It shall be unlawful for any dealer, storer or distributor engaged in, or continuing in Winston County, in the business for which the tax is hereby levied, to fail or refuse to add to the sales price and collect from the purchaser the amount due on account, of the tax herein provided or to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption of the tax or any portion thereof.

“Section 3. The tax hereby authorized shall be paid by affixing stamps as is required for the payment of the tax imposed by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975. The State Department of Revenue shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax.

“Section 4. The State Department of Revenue is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this Act. All such rules and regulations duly promulgated shall have the force and effect of law.

“Section 5. All laws, and rules and regulations of the department of revenue, relating to the manner and time of payment of the tax levied by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully as if set out herein.

“Section 6. The proceeds from the tax hereby authorized, less the actual costs of collection not to exceed five per centum (5%) shall be paid by the State Department of Revenue into the County general fund of Winston County to be expended at the discretion of the county commission.

“Section 7. (a) None of the provisions of this act shall be applied in such manner as to be in violation of the commerce or other



clauses of the federal or state constitution. (b) This statute shall not be construed to apply to cigarettes, cigars, snuff, smoking tobacco and like tobacco products stored by a wholesale dealer for the purpose of resale or reshipment outside of such counties which are actually resold or reshipped."

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective on the first day of the month next succeeding the date of its enactment.

This Act became a law under Section 125 of the Constitution on May 15, 1985 without approval by the Governor.

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Act No. 85-641

S. 660—Senator Holmes

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the Town of Ohatchee in Calhoun County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the Town of Ohatchee in Calhoun County are hereby altered, rearranged and extended so as to include within the corporate limits of said town, in addition to the lands now included, all of the following territory, to-wit:

Beginning at a point on the East line of Alabama Highway #77 at the point of intersection with the South line of the North half of Section 20, Twp. 14, R-6, Calhoun County, Alabama, said point being on the existing North line of the city limits of Ohatchee, Alabama; thence in a Northerly direction along the East line of said Highway a distance of 7,996 ft., more or less, to a point that is 200 ft. North of the North line of Margie Lane; thence Easterly 200 ft.; thence Northerly 100 ft.; thence Westerly 222 ft. to the East line of said Highway #77; thence Northerly along said Highway a distance of 7,817 ft., more or less, to the North line of Calhoun County, Alabama, also being on the North line of the South 1/4 of Section 6, Twp. 14, R-6, Calhoun County, Alabama; thence Westerly along said North line 220 ft., more or less, to the Westerly right of way of said Highway # 77; thence Southerly along the Westerly line of said Highway 1,570 ft., more or less, to the North line of Bluff Road;

thence Westerly along Bluff Road 2,090 ft.; thence Southwesterly and perpendicular to Bluff Road 50 ft. to the Northwest corner of Lot 21, Block 3, as shown on the map of Five-W Lakesite Subdivision, as recorded in the office of the Probate Judge of Calhoun County, Alabama in plat book "O", page 24; thence Easterly along the South line of said Bluff Road 765 ft. to the West line of Sand Hill Drive; thence Southerly 140 ft. to the Southeast corner of Lot 13-A of said subdivision; thence Westerly 79.7 ft.; thence Southerly 258.3 ft. to the Southwest corner of Lot 12 of said subdivision; thence Easterly along the South line of Lots 12 and 11, 268.7 ft. to the Southeast corner of said Lot 11; thence Northerly 265.35 ft.; thence Westerly 56 ft.; thence Northerly 140 ft. to the South line of Bluff Road; thence Easterly along said road 1,395 ft., more or less, to the West line of Highway 77; thence Southerly along said Highway 127.6 ft., more or less, to the North line of Cherry Well Street; thence Southwesterly along said street 1,047 ft., more or less, to the beginning point of a cul-de-sac; thence Westerly and Southerly around said cul-de-sac 112 ft. to the Northwest Corner of Lot 9, Block 4 of said Five-W Lakesite Subdivision; thence Southerly along the West line of said Lot 9, a distance of 257.5 ft. to the Southwest corner thereof; thence Easterly along the South line of Lots 9 and 8, a distance of 299.6 ft. to the Southeast corner of said Lot 8; thence Northerly along the East line of said Lot 277.8 ft. to the South line of said Cherry Well Street; thence Northeasterly along said street 1,071.5 ft., more or less, to the West line of Highway #77; thence Southerly along said Highway 1,420 ft., more or less, to the North line of a public road known as Robbins Mill Road; thence Westerly along said road 99.56 ft.; thence Northwesterly 262.33 ft. to the Neely Henry Lake; thence Southwesterly along said lake 302.79 ft.; thence Easterly 335.37 ft. to the Westerly line of Robbins Mill Road; thence Southerly along said road 21.31 ft.; thence Westerly 387.58 ft. to said lake; thence Southeasterly along said lake 256.81 ft.; thence Southerly 136.01 ft. to the North line of said Robbins Mill Road; thence Westerly along said road 220 ft.; thence Northerly 77.67 ft. to said lake; thence Westerly along said lake 225 ft.; thence Southerly 84.35 ft. to Robbins Mill Road; thence Southwesterly along said road 135 ft., more or less, to the Southeast corner of the Wallace Smith Lot; thence Northwesterly 229.53 ft. to said lake; thence Southerly along said lake 277.4 ft.; thence Northeasterly 157.86 ft. to a point on the cul-de-sac at the end of Robbins Mill Road; thence Easterly along the South line of said road 232 ft., more or less, to the Northwest corner of the Weathington property; thence Southerly along said property 90 ft. to said lake; thence Easterly 225 ft. to the Southeast corner of said Weathington property; thence Northerly 111 ft. to Robbins Mill Road; thence Easterly along said road 705 ft., more or less, to Highway #77; thence Southerly along said Highway 710 ft., more or less, to the Northeast corner of the Blair property at its

intersection with the lake line; thence Southwesterly, Southerly and Easterly along the lake line 1,035 ft.; thence Northerly 154.22 ft. to the South line of Blair Road; thence Easterly along said road 162.77 ft., more or less, to the West line of Highway #77; thence Southerly along said Highway 2,368 ft., more or less, to the North line of Virgil Road; thence Westerly along said road 277 ft. to the East line of Ty Place; thence Northerly along Ty Place 541.3 ft. to the Northwest corner of Lot 5, Block 9, as shown on the map of Five-W Lakesite Subdivision as recorded in the office of the probate Judge of Calhoun County, Alabama in Plat Book "Q", page 42; thence Westerly along said subdivision 298.76 ft. to the Northwest corner of Lot 7, of said Block 9; thence Southerly and Southeasterly along the South line of said Lot 7, a distance of 391.97 ft. to the West line of Ty Place; thence Southerly along said West line 300 ft. to the North line of Virgil Road; thence Westerly along said road 344.42 ft. to the Southeast corner of Lot 14 of said Block 9; thence Northerly Westerly and Southeasterly along Lots 14, 15, 16, 17, 18 and 19 of said Block 9, a total distance of 1,554.5 ft., more or less, to the Southeast corner of said Lot 19; thence Southerly along the West line of Phil Place 171.23 ft. to the North line of Virgil Drive; thence Westerly along said Virgil Road 603.95 ft. to the Southeast corner of Lot 28 of said Block 9; thence Northerly, Westerly and Southerly along the line of said Lot 28, a total distance of 888.48 ft. to the Southwest corner of said Lot 28; thence Southwesterly along Virgil Road and its extension a distance of 3,347 ft., more or less, to the Southwest corner of Lot 18, Block 10, as shown on the map of Five-W Lakesite Subdivision, as recorded in the office of the Probate Judge of Calhoun County, Alabama in Plat Book "Q", page 34; thence Southeasterly along the South line of said Lot 18, a distance of 138.08 ft. to the Southeast corner thereof; thence Northeasterly along the East line of said Lot 178.79 ft. to the Northeast corner thereof; thence Northwesterly along said Lot 135 ft., more or less, to Virgil Road; thence Northeasterly along said Road 563 ft., more or less, to the Southerly line of Lot 11, of said Block 10; thence Southeasterly along said Lot 210 ft., more or less, to the Southeast corner thereof; thence Northerly and Westerly along said Lot 248 ft., more or less, to the Easterly line of Virgil Road; thence Northerly along said Road 987 ft., more or less, to the Southwest corner of Lot 22 of said Block 10; thence Southeasterly along said Lot 160.3 ft. to the Southeast corner thereof; thence Northeasterly along the East line of said Lot 120.08 ft. to the Northeast corner thereof; thence Northwesterly along the North line of said Lot 148.28 ft. to Virgil Road; thence Northeasterly along said road 957 ft., more or less, to the West line of Firecracker Drive; thence Southerly along said drive 670.46 ft., more or less, to the Northeast corner of Lot 34 of said Block 10; thence Northwesterly along said Lot 34, a distance of 209.31 ft. to the Northwest corner thereof; thence Southwesterly along the West 123.93

ft. to the Southwest corner thereof; thence Southeasterly along the South line of said Lot 215.05 ft. to Firecracker Drive; thence Southerly along said drive 148.98 ft. to the Northeast corner of Lot 34 of said Block 10; thence Westerly along the North line of said Lot 246.16 ft. to the Northwest corner thereof; thence Southerly along the Westerly line of Lots 38, 39, 40, and 41 of said Block 10, a total distance of 1,106.82 ft. to the Southeast corner of said Lot 41; thence Northerly along the East line of said Lot 150.88 to the Northeast corner thereof; thence Northerly along the East line of an unnamed road 100 ft., more or less, to the Southwest corner of Lot 43 of said Block 10; thence Easterly and Northerly along said Lot 43, a distance of 360 ft., more or less, to the Northeast corner of said Lot 43; thence Northwesterly 125 ft., more or less, to the Southeast corner of Lot 47 of said Block 10; thence Northeasterly along the East line of said Lot 120 ft. to the Northeast corner thereof; thence Northwesterly 231.38 ft. to Firecracker Drive; thence Northerly along said drive 860 ft., more or less, to Virgil Road; thence Northeasterly along Virgil Road 419.2 ft., more or less, to the South line of Section 7, Twp. 14, R-6, Calhoun County, Alabama; thence Easterly along said South line 551.6 ft.; thence Northerly 553.8 ft. to Virgil Road; thence Easterly along said Road 60 ft. to Highway #77; thence Southerly along said Highway 1,039.3 ft., more or less, to the North line of Cobb Road; thence Westerly along said road 272.72 ft. to the East line of McNabb Lane; thence Northerly along said East line 320 ft., more or less; thence West 242.5 ft.; thence South 129.05 ft.; thence East 62 ft.; thence South 190 ft. to Cobb Road; thence Westerly along said road 555.87 ft.; thence North 189.22 ft.; thence East 62.5 ft.; thence North 126.42 ft.; thence West 237.5 ft. to the West line of Marvin Lane; thence South along the West line of said Marvin Lane 341.8 ft., more or less, to Cobb Road; thence Southwesterly along said road 470.57 ft. to the North line of Chip Lane; thence Westerly along said Chip Lane 270 ft.; thence Northerly 198.4 ft.; thence Northwesterly 119 ft.; thence Southerly 669.12 ft. to the South line of Claymore Drive; thence Easterly along said drive 394 ft., more or less, to Cobb Road; thence Southerly along said road 560 ft.; thence Westerly 97.92 ft.; thence Southerly 200 ft. to a point on the South line of Gray Drive; thence Easterly along said drive and an extension thereof 275.8 ft.; thence Northerly 441 ft.; thence Westerly 144 ft. to Cobb Road; thence North along said road 150 ft.; thence Easterly 167 ft.; thence Northerly 296.02 ft.; thence Southwesterly 239.7 ft. to Cobb Road; thence Northeasterly along said road 879.06 ft.; thence Southerly 288.2 ft. to the North line of Russell Street; thence Easterly along said street 178 ft. to the West line of Harper Drive; thence Southerly along said drive 315 ft.; thence Southwesterly 226 ft.; thence Southerly 300 ft.; thence Northeasterly 230 ft. to the East line of Harper Drive; thence Northerly along said East line 355.1 ft.; thence Southeasterly 130 ft.; thence Southerly 183 ft. to

the North line of a 30 ft. private drive; thence Northeasterly 265 ft. to the West line of Colvard Drive; thence Northerly along said West line 60 ft.; thence Northwesterly 403 ft. to the East line of Harper Drive; thence Northerly along said East line 118.1 ft.; thence Southeasterly 164.66 ft.; thence Northerly 153 ft. to Cobb Road; thence Easterly along said road 194.24 ft. to the East line of Colvard Drive; thence Southerly along said East line 200 ft.; thence Easterly 134.25 ft.; thence Northerly 202 ft. to Cobb Road; thence Easterly along said road 110 ft. to the West line of Todt Drive; thence Southerly along said drive 366.27 ft.; thence Westerly 160.67 ft.; thence Southerly 144.65 ft.; thence Easterly 171.46 ft. to the West line of Todt Drive; thence Southerly along said drive 436.78 ft.; thence Easterly 50 ft. to the East line of said Todt Drive; thence Northerly along said East line 376.68 ft.; thence Easterly 192.03 ft.; thence Northerly 132 ft.; thence Westerly 172.57 ft. to Todt Drive; thence Northerly along said drive 261.53 ft.; thence Easterly 164.25 ft.; thence Southerly 61.19 ft.; thence Southeasterly 200 ft. more or less, to Highway #77; thence Southerly along said Highway 990.35 ft.; thence Southwesterly 525.82 ft. to the North line of Lakeshore Drive; thence Westerly along said drive 85.73 ft.; thence Northerly 248.7 ft.; thence Westerly 85 ft.; thence Southerly 234.47 ft. to the North line of Lakeshore Drive; thence Westerly, Southerly and Northwesterly along said drive, a total distance of 1,218.77 ft. to the Southwest corner of Lot 23, as shown on the map of Lakeshore Estates Subdivision, as recorded in the office of the Probate Judge of Calhoun County, Alabama in Plat Book "P", page 3; thence Easterly 162.6 ft. to the Southeast corner thereof; thence Northerly 120 ft. to the Northeast corner thereof; thence Westerly 179.6 ft. to Lakeshore Drive; thence Northerly along said drive 390.07 ft. to the Southeast corner of Lot 19 of said subdivision; thence Northeasterly 219.59 ft. to the Northeast corner thereof; thence Westerly 339.9 ft. to the Northwest corner of Lot 18 of said subdivision; thence Southeasterly along the West line of said Lot 18, a distance of 297.17 ft. to Lakeshore Drive; thence Southerly along said drive 399.3 ft. to the Northeast corner of Lot 11 of said subdivision; thence Southwesterly along the North line of said Lot 254.3 ft. to the Southwest corner thereof; thence Easterly along the South line of Lots 11, 10, 9, 8, 7, 6 and 5, a total distance of 1,050.7 ft., more or less, to the Northeast corner of said Lot 5; thence Northwesterly along the North line of said lot 199.71 ft. to Lakeshore Drive; thence Northerly and Easterly along said drive a total distance of 889 ft., more or less, to the West line of a 30 ft. public road; thence Southerly along said road 450 ft.; thence Easterly along the South side of a 50 ft. public road 230 ft.; thence Northerly 250 ft.; thence Westerly 102.26 ft.; thence Southerly 200 ft.; thence Westerly 100 ft.; thence Northerly 400 ft. to the South line of the South line of Lakeshore Drive; thence Easterly along said drive 441.37 ft. to the West line of a 50 ft. public road; thence Southerly along

said road 186.41 ft.; thence Easterly 199.15 ft.; thence Northerly 65 ft.; thence Westerly 162 ft., more or less, to the East line of said road; thence Northerly along said road 92.11 ft. to Lakeshore Drive; thence Easterly along said drive 416 ft., more or less, to Highway #77; thence Southerly along said Highway 6,660 ft., more or less, to a point that is perpendicular to and 140 ft. West of the beginning point; thence East 140 ft. to the point of beginning.

**Section 2.** Any owner of property or any resident residing on property lying within the aforementioned legal description, may within 45 days after passage of this act file with the mayor and city clerk a written petition listing a legal description of the property owned or resided upon and that said property is excluded from the provisions of this act.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

Act No. 85-642

S. 280—Senator Bishop

### AN ACT

To amend Section 36-29-2, Code of Alabama 1975, which creates the state employees' insurance board, so as to provide further for membership on the board.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-29-2, Code of Alabama 1975, is hereby amended to read as follows:

“§36-29-2.

“The state employees' insurance board shall consist of the members of the state personnel board, together with the director of finance, the secretary-treasurer of the employees' retirement system of Alabama, two members who are regular employees of the state and two retirees covered under the state employees' health insurance plan who are receiving benefits from the employees' retirement system of Alabama. The present ex officio officers named shall constitute the membership of the board hereby created, and their successors in office, by virtue of assuming such office, shall succeed to membership on the board. The two state employee members of the board shall

be elected at the regular election for officers of the Alabama state employees' association as follows:

"At the expiration of the term of the existing state employee members of the board one state employee member of the board shall be elected for a two-year term and every four years thereafter, and the other state employee member of the board shall be elected for a four-year term, and every four years thereafter. Vacancies of the state employee members of the board shall be filled for the remainder of the term by special election of the Alabama state employees' association. The chairman of the state personnel board shall serve as the chairman of the state employees' insurance board.

"The retired members shall be elected in a statewide ballot conducted under the supervision and direction of the board under such rules and regulations as are necessary to insure that all eligible retirees are afforded the opportunity to vote.

"The board of directors of the Alabama retired state employees' association shall submit one nomination for each retired member position. The board shall determine the procedure for qualification of additional candidates which shall include but is not limited to the submission of a petition or petitions which shall include the signature of at least 50 eligible retirees. With the exception of the initial election, each position shall be for a term of four years. The initial terms shall be as follows:

"(a) Retired member place number 1 for a period of two years beginning November 1, 1985.

"(b) Retired member place number 2 for a period of four years beginning November 1, 1985.

"Any vacancy in the office of either retired positions shall be filled for the remainder of that term by the board from a list of three eligible retired members submitted by the board of directors of the Alabama retired state employees' association."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-643

S. 614—Senator Cooley

### AN ACT

Relating to Cullman County; To provide for the continuation of supplemental salaries and expense allowances paid from the county treasury to the person holding the office of clerk and register of the circuit court.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The person holding the office of clerk and register of the circuit court in Cullman County shall receive an annual supplemental salary, paid from the county treasury. Such salary supplement shall be fixed at an amount equal to the supplemental salary upon which the Democratic Party based its assessment of filing fees for candidates for the office of circuit clerk and register of Cullman County in the 1982 primary election.

**Section 2.** All salary supplements and expense allowances paid from the Cullman County treasury to the person holding the office of clerk and register of the Cullman County circuit court during the period beginning on January 16, 1977, and ending on September 30, 1984, are ratified, confirmed and approved by this act.

**Section 3.** The salary supplement authorized by Section 1 of this act shall be made retroactive to the fiscal year beginning on October 1, 1984.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 20, 1985

Time: 2:00 P.M.

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Act No. 85-644

S. 122—Senator Holmes

### AN ACT

To provide full-time educational support personnel with personal leave days.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** When used in this act, the following terms shall have the following meanings, respectively:

(1) Support personnel or employee. Maid, custodian, adult bus driver, lunchroom or cafeteria worker, secretary, clerk, clerical assistant, maintenance worker, or other non-certificated employee who works an average of 20 hours weekly and who is not otherwise covered by the State Merit System or Teacher Tenure Law.

(2) Educational authority. All public county school systems, all public city school systems, the Alabama Institute for Deaf and Blind,



all public two-year educational institutions, and the Alabama School of Fine Arts.

**Section 2.** Each educational authority shall grant two days of personal leave with pay to its support personnel during the time schools are in session. Additional days may be granted by the educational authority at its discretion. No employee, as a condition to receive personal leave, shall be required to divulge his/her reasons for requesting such leave. The board of control of the educational authority shall enact policies providing for uniform administration of personal leave.

**Section 3.** To meet the requirements of this Act, there is hereby appropriated from the Special Educational Trust Fund to the State Board of Education, to be allocated by formula of uniform application to local county and city boards of education, the Alabama Institute for Deaf and Blind and the Department of Youth Services School District, for the fiscal year ending September 30, 1986 and all subsequent fiscal years, such sums as may be necessary to meet these requirements. Provided that no local board shall claim reimbursement for any day for which a substitute employee was not used to replace the regular employee on leave.

**Section 4.** Funding for two days of personal leave shall come from appropriations made through the annual Appropriations Act to the Minimum Program in the Alabama Special Educational Trust Fund. Funding for additional personal leave days shall be at the expense of the educational authority.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** This act shall become effective October 1, 1985.

This Act became a law under Section 125 of the Constitution on May 16, 1985 without approval by the Governor.

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Act No. 85-645

H. 114—Reps. Campbell, Biddle,  
Johnson (Roy), Davis,  
Trammell,  
Buskey (John), Drake,  
Clark (J), Escott, Starr,  
Blake, Moore, Newton,  
Hooper, Junkins,

Thomas, Newman,  
Boles, Blakeney,  
Sasser, Rogers, Cosby,  
Laird, Crow, Venable,  
Turnham, Zoghby,  
Turner, Box, Perdue,  
McNair, and Hammett

## AN ACT

To establish service territories for electric suppliers within the State; to provide the means of eliminating or reducing the potential for duplication of electric distribution facilities used for furnishing retail electric service; to mandate and implement the determination of which electric supplier shall furnish retail electric service to electric customers within various areas of the State including areas within municipal limits of municipalities as such municipal limits existed on April 26, 1984 and outside municipal limits based on the location of electric distribution facilities as of January 1, 1984; to provide that the primary electric supplier within each municipality in the State shall have the right, as its option, to purchase all distribution facilities of any secondary electric supplier used to supply retail electric service within the municipal limits as such municipal limits existed on April 26, 1984 and have the right to serve all premises within the municipal limits as such municipal limits existed on April 26, 1984, subject to certain conditions; to define the right and obligation of municipalities and municipally-owned electric suppliers to provide electric service in areas outside the municipal limits as such municipal limits existed April 26, 1984 based on the location of electric distribution facilities as of January 1, 1984; to provide electric suppliers designated to serve particular areas outside municipal limits of any municipality, an option to purchase facilities of other suppliers constructed in such area after January 1, 1984; to provide for resolution of disputes between electric suppliers regarding sale or purchase of electric facilities; to provide for the applicability of certain provisions of Title 37, Code of Alabama (1975); to provide special rules for elimination of duplication of facilities in the case of certain agreements between electric suppliers; to prohibit the providing of electric service in violation of this Act; to provide for judicial review and validation of the provisions of this Act by the courts and set out procedures governing such proceedings and appeals therefrom; to provide that certain provisions of the Act are not severable and that if any such provision is declared invalid under state law, the remaining provisions also shall be invalid, and to further provide that if the Act is declared invalid, any actions taken by any party in conformity with the provisions of the Act shall be lawful but that any electric service rendered pursuant to the provisions of the Act shall be terminated; and to repeal all laws or parts of laws in conflict herewith or if Act No. 84-206, adopted in the Regular Session of 1984, is upheld, to amend Act No. 84-206 so as to provide for and approve additional agreements between electric suppliers to eliminate duplication of facilities.

*Be It Enacted by the Legislature of Alabama:*

### **Section 1.** Declaration of Findings and Policy

The Legislature of the State of Alabama has investigated the economic, financial and environmental impact associated with the potential for duplication of electric distribution facilities used for the furnishing of retail electric service. It has been determined that with respect to retail electric sales, the benefit normally associated with competition between two or more entities for customers is outweighed

by the tremendous cost burden which must be borne by such customers associated with the maintenance of two or more duplicate sets of facilities. It is the further finding of the Legislature that the existence of duplicate facilities for the furnishing of electricity at retail is not in the public interest because of the adverse impact which such duplication has on environmental and aesthetic values and on safety. It is therefore declared that the policy of the State of Alabama is to ensure effective, economical and orderly supply of electric service at retail to customers in the State and to avoid unnecessary duplication of facilities by electric suppliers for the furnishing of such services which would result in waste and in degradation of the environment. To accomplish these objectives, it is necessary and in the public interest to establish, mandate and implement procedures for determining which electric supplier shall furnish electric service to customers at retail within various areas of the State including areas within the corporate limits of municipalities in the State. The rules established herein for elimination of duplication of electric facilities may result in the requirement that a municipality grant consent to service by a particular electric supplier if the municipality desires that such area be supplied with electric service. Such rules are deemed essential by the Legislature in the exercise of police power of the State to eliminate wasteful duplication of electric facilities. Contracts entered into by municipalities for the purpose of securing loans pursuant to Section 11-50-11 of Code of Ala. (1975), or pursuant to any other provision of law, which restrict the grant by the municipality of a municipal franchise or consent shall not be interpreted as applying to any area of the municipality other than the areas of the city in which the municipal electric system was located on the effective date of this Act. The determinations and statements of policy set forth above are similar to those contained in Act No. 84-206 of the Alabama Legislature, Regular Session, 1984. Act No. 84-206 was declared invalid by the federal district court for the middle district of Alabama. It is the conclusion of the Legislature that such determination was improper and should be reversed, leaving valid Act No. 84-206. In the event Act No. 84-206 is hereafter declared to be valid on appeal of the decision of the federal district court, it is the intent of the Legislature that Act No. 84-206 not be repealed by this Act but shall be considered valid and binding in lieu of the provisions of this Act. It is the intent of the Legislature that this Act establish rules for elimination of duplication of facilities which shall apply to lines constructed after January 1, 1984. It has been determined that no electric supplier should be permitted to retain facilities built inconsistent with the provisions of Act No. 84-206, even though, if Act No. 84-206 is not reinstated, such construction was not prohibited by law. It has been determined further that compensation for facilities should be made in accordance with the provisions of Section 3(f) hereof.

## Section 2. Definitions

(a) "Electric supplier" means any municipality, municipally-owned utility or other governmental entity, any cooperative, corporation, person, firm, association or other entity engaged in the business of supplying electric service at retail; provided, however, that no person or entity, including the Tennessee Valley Authority, who may not be lawfully regulated by the State by virtue of powers granted by the laws of the United States which prevail over Alabama statutes, nor any university, college or United States agency which distributes electricity at retail shall be deemed an electric supplier for the purpose of this Act.

(b) "Electric service at retail" and "retail electric service" means electric service furnished to a customer for ultimate consumption, but does not include wholesale electric service furnished by an electric supplier to another electric supplier for resale.

(c) "Premises" means the building, structure or facility to which electricity is being metered or is to be furnished and metered, including all meters on such building, structure or facility through which electricity is delivered or to be delivered. Such term shall also include any building, structure or facility which is reconstructed to replace a previously existing building, structure or facility of substantially the same size. In the event two or more buildings, structures, or facilities are located on one tract of land utilized by one customer, those buildings, structures, or facilities which are or will be served through a different meter shall be considered a separate premises.

(d) "Distribution line" means an electric conductor which is operated at 35,000 volts or less, up to but not including the service drop. The service drop shall be that line from the last pole or last transformer on the distribution system to the premises.

(e) "Existing distribution line" means a distribution line in existence on January 1, 1984.

(f) "Primary electric supplier" means that electric supplier for each municipality existing on January 1, 1984 serving a plurality of the premises within the existing municipal limits to which service is actually being supplied and metered on January 1, 1984.

(g) "Secondary electric supplier" means any electric supplier serving within existing municipal limits which is not the primary electric supplier.

(h) "Existing municipal limits" means the corporate boundaries of any municipality as such boundaries existed on April 26, 1984.

(i) "Municipal consent" or "consent of the municipality" shall mean the approval by a city or town pursuant to Section 220 of the

Constitution of the use of the streets, avenues, alleys or public places of the city or town evidenced by appropriate action of the proper authorities of the city or town.

(j) "Reproduction cost new less depreciation" means the total investment that would be required by the electric supplier selling the facilities to duplicate the facilities to be sold at the time of such sale utilizing then current costs for all materials, supplies, labor, land and land rights, transportation, and miscellaneous direct and indirect expenses (including overhead, engineering and supervision costs that are normally capitalized) that would be required; the costs that would be required to obtain all necessary approvals and permits; and any other costs that would be appropriately applicable to the reproduction of the facilities, less an amount representing the straight line depreciation of such reproduction costs of any depreciable items over an assumed life of thirty years for electric distribution facilities for that period of time equal to the age of the items of the electric distribution facilities being transferred. In no event, however, shall any item be depreciated more than 30% of the reproduction costs new of that item, so that in no event shall reproduction cost new less depreciation be less than 70% of the reproduction cost of such item.

(k) "Industrial Customer" means a customer utilizing electric service at a premises at which the predominate activity is classified as mining; manufacturing; transportation, communication, electric gas and sanitary services; or miscellaneous repair services in the Standard Industrial Classification Manual, Part I, Divisions B, D and E and Major Group 76 of Division I as published in 1972 by the Statistical Policy Division of the United States Office of Management and Budget.

(l) "New Industrial Customer" means an industrial customer who constructs a new premises on a site not previously occupied by an industrial customer.

### **Section 3. Electric Service Outside Existing Municipal Limits**

Except as otherwise provided in Sections 3(b), 3(c), 3(d), and 3(f) but notwithstanding any other provision of this Act, in areas outside existing municipal limits (including areas annexed to municipalities on or after April 26, 1984), no electric supplier shall construct or maintain electric distribution lines for the provision of retail electric service to any premises being provided retail electric service by another electric supplier, or to any new premises located within the boundaries of assigned service areas of another electric supplier. Assigned service areas outside existing municipal limits are hereby established as set forth in this Section 3.

(a) Except as specified in Section 3(b) and 3(c) herein, each electric supplier is hereby granted a legislative franchise and assigned the sole obligation, in areas outside existing municipal limits and within existing municipal limits to the extent the standards of this Section are made applicable by Section 4(a)(5), for provision of retail electric service to all new premises located in closer proximity to existing distribution lines of such supplier than the nearest existing distribution lines of any other electric supplier (including areas annexed to municipalites on or after April 26, 1984 whether or not a municipal franchise has been granted to the electric supplier to whom an area annexed has been assigned or to any other electric supplier) such legislative franchise being subject, nevertheless, to consent of the municipality with respect to any construction or operation for which a municipal consent is required. Electric service shall be rendered by the electric supplier to whom responsibility has been assigned in accordance with its established rules and regulations. No other electric supplier shall render electric service to such premises. Thus, the assigned service area of each electric supplier in areas outside existing municipal limits is defined as the area or areas consisting of a line or lines drawn equi-distant between the existing distribution lines of such electric supplier and the nearest existing distribution line of any other electric supplier. Where a premises is located in the assigned service area of two electric suppliers, the supplier in whose assigned area the majority of the square footage of the premises falls shall provide the service. The above prohibitions and assignments shall also apply to areas within the existing municipal limits in the event the primary electric supplier fails to exercise the option to purchase set forth in Section 4 subject, nevertheless, to the consent of the municipality with respect to any construction or operation for which a municipal consent is required.

(b) Notwithstanding the above limitations stated in this Section 3 on construction of facilities to serve customers in areas outside existing municipal limits, an electric supplier may construct, operate and maintain facilities for provision of retail electric service to any new industrial customer not presently or previously served by another electric supplier, in an area outside existing municipal limits where the initial electric service requirement to such industrial customer, under normal operations and with a six (6) month growth period permitted from date of initial service, is equal to or greater than 2500 kilowatts as measured over a fifteen (15) minute integrated period, upon written request to such electric supplier by the industrial customer to be served.

(c) Notwithstanding Section 3(b) hereof, no municipality or municipally-owned electric supplier shall provide retail electric service in any area outside existing municipal limits unless the premises to be so served is in the assigned service area of such electric supplier.

(d) The foregoing limitations shall not prevent an electric supplier from constructing electric facilities to serve its own premises used or to be used in its electric operations and other premises owned and occupied solely and exclusively by the electric supplier, or a municipality which appoints the governing body of such electric supplier or any agency of said municipality whose governing body is appointed by that municipality.

(e) Within nine months after the effective date of this Act, all electric suppliers having existing distribution lines in each county in the State shall exchange maps of such facilities (as of January 1, 1984) located within the county. These maps shall be sufficiently detailed to permit the development of a definitive understanding of the electric supplier designated to serve under the guidelines set forth in Section 3(a) above. The legislature recognizes that the vast majority of existing distribution lines within existing municipal limits will have no effect on the assigned service areas determined in accordance with this Section 3 and electric suppliers may, at their option, elect not to show existing distribution lines which do not affect the assigned service areas.

(f) In the event an electric supplier has constructed, after January 1, 1984 and prior to the effective date of this Act, electric distribution facilities to provide electric service at retail to a premises located in the assigned service area of another electric supplier, the electric supplier in whose assigned service area the facilities are located shall, at its option, have the right to acquire such facilities. Such option shall be exercised in the same manner, at the same time, and shall be subject to the same compensation provisions, specified in Section 4 of this Act; provided, however, no escrow of funds shall be required in connection with such purchase. If the electric supplier in whose area the electric distribution facilities are located fails to exercise its option to acquire such facilities, the owner of such facilities shall be authorized to maintain such facilities to provide service to premises being served as of the effective date of this Act; but shall not extend service from such facilities to new premises in violation of the principles set forth in this Section 3.

(g) Neither (i) municipal annexations after April 26, 1984, nor (ii) the construction or removal of any facilities after January 1, 1984, nor (iii) the purchase or sale of any facilities after the effective date of this Act consummated under the provisions of this Act shall affect any rights or limitations regarding retail electric service under this Section 3. Any annexation by a municipality pursuant to the laws of this State shall be subject to and conditioned upon recognition of the provisions of this Act.

#### **Section 4. Retail Electric Service Within Municipalities**

(a) Primary Supplier's Option to Acquire Facilities Within Existing Municipal Limits.

The primary electric supplier within each municipality shall, at its option, have the right to acquire all distribution facilities of any secondary electric supplier used to supply retail electric service within the existing municipal limits and shall have the right to serve all premises within the existing municipal limits of such municipality subject to the provisions of subsections 4(a)(1) through 4(a)(5). Except as authorized in this Section 4, no secondary electric supplier shall extend facilities to serve existing or new premises within the existing municipal limits of the municipality.

(1) The primary electric supplier must announce its intention to exercise its option to acquire the distribution facilities of secondary electric suppliers by giving written notice by registered or certified mail to the affected secondary suppliers within each municipality, addressed to the chief executive officer or manager of such secondary supplier, no later than thirty (30) days after the effective date of this Act. This notice shall be referred to in this Act as the "initial notice of intent to purchase." Within nine (9) months after the effective date of this Act, the primary electric supplier shall deposit in escrow with a bank whose principal office is in Alabama and which has capital and surplus not less than five million (\$5,000,000) dollars, or with any other escrow agent agreeable to the parties, the amount of one thousand (\$1,000) dollars for each premises receiving electricity from the distribution facilities proposed to be purchased by the primary electric supplier on the date of the escrow notice defined below, based on the primary electric supplier's good faith estimate of the number of premises involved. Simultaneously with such deposit, the primary electric supplier shall give notice by registered or certified mail to the affected secondary supplier of the amount and date of the deposit. This notice shall be referred to in this Act as the "escrow notice." Failure to make the escrow deposit within nine (9) months after the effective date of this Act shall constitute a forfeiture of the option granted to the primary supplier hereunder, but such failure to make such escrow deposit shall not create any liability of the primary supplier to the secondary supplier. In such event, provision of electric service shall be governed by the rules set forth in Section 4(a)(5). The secondary supplier shall, within seven (7) days after receipt of the escrow notice, provide the actual number of premises involved, if different from that estimated by the primary supplier, and the escrow deposit made by the primary supplier shall be adjusted to accommodate any difference within seven (7) days after such actual number of premises is supplied. The escrow agent shall be directed and authorized to invest the funds placed in escrow by the primary electric supplier in any investment directed



by the primary electric supplier. The escrow agent is further authorized, upon election of the primary electric supplier making the deposit, to combine for investment any other deposit made by that depositor for the same purpose with respect to different facilities. The escrow agent shall render periodic accountings as to the escrow account to the primary electric supplier and the secondary electric supplier. If the purchase is consummated in accordance with this Act, the funds shall be used to satisfy the purchase price of the facilities and other consideration to be paid by the primary electric supplier to the secondary electric supplier due as of the date of closing as determined under this Section 4. Any portion of such fund in excess of the amount due to be paid to the secondary electric supplier on the date of closing shall be refunded to the primary electric supplier. If the amount due to be paid by the primary electric supplier to the secondary electric supplier under this Section 4 on the date of closing is in excess of the amount in the escrow account, the primary electric supplier shall pay the difference to the secondary electric supplier at closing. If the closing of the facilities is not consummated because of the failure of the primary electric supplier to pursue its option under this Act to purchase the distribution facilities, the escrow agent shall be instructed to deliver from the escrow fund to the secondary electric supplier, fourteen (14) days after the date on which the primary electric supplier's rights to purchase the facilities expire unconsummated, the interest earned on the amount deposited from investment of such funds plus ten percent (10%) of the amount originally deposited by the primary electric supplier. The balance of such escrow funds shall be returned to the primary electric supplier making the deposit.

(2) Unless otherwise agreed to by the secondary electric supplier and except as provided in Section 4(a)(3), the primary electric supplier must offer to purchase all of the distribution facilities of the secondary electric supplier utilized by the secondary electric supplier for retail electric service within the existing municipal limits of any particular municipality. The primary and secondary electric supplier shall cooperate in the development of an inventory of such facilities and in the valuation of the facilities to be sold and other consideration to be paid in accordance with the principles set forth in subsection (a) (4) below. The secondary electric supplier shall also furnish to the primary electric supplier an accurate record of the revenues billed to customers of the secondary electric supplier located within the existing municipal limits of the municipality for the twelve (12) months preceding the date of the escrow notice from the primary electric supplier of its exercise of the option to purchase facilities. The secondary electric supplier shall also provide the primary electric supplier with such information as is available to the secondary electric supplier concerning title to the distribution facilities. Within three

(3) months after the escrow notice has been given to the secondary electric supplier, if agreement has not been reached as to the inventory of facilities to be acquired and the value thereof or other consideration to be paid, the primary electric supplier shall be entitled to provide, in writing, its proposal listing the distribution facilities to be acquired, stating its estimate of the value and listing its evaluation of other consideration to be paid in accordance with subsection (a)(4) hereof. Within thirty (30) days after receipt of any such proposal, the secondary electric supplier shall state its objection, if any, to the matters contained in such proposal. If the secondary electric supplier fails to submit objections within such thirty (30) day period, the proposal submitted by the primary electric supplier shall be conclusive as to the matters contained therein. If the secondary electric supplier does provide written objections, any dispute between the parties shall be resolved by mutual agreement or by the procedure set forth in Section 5 hereof.

(3) Each affected secondary supplier shall have the right to continue to provide retail electric service in accordance with its established rules and regulations, without time limitation, to any premises within the existing municipal limits of any municipality, the electric load of which (a) was 800 kilowatts or greater for three consecutive months during the three (3) years prior to January 1, 1984; or (b) is served from a substation or step-down transformer from 44 kilovolts or higher which is devoted exclusively to service to the particular premises.

(4) The reproduction cost new, less depreciation, of the facilities to be acquired shall be determined as of thirty (30) days prior to the date established for the closing of the acquisition. The facilities transferred shall be conveyed by warranty deed, "as is, where is", without warranty, express or implied, as to the condition of the facilities. In addition to such reproduction costs, the primary electric supplier shall (i) reimburse the secondary electric supplier the costs to the secondary electric supplier for removal of its meters which are excluded from the definition of distribution facilities in Section 4(b)(i); (ii) reimburse the secondary electric supplier the cost of constructing any necessary facilities to reintegrate the system of the secondary electric supplier after detaching the portion to be sold to the primary electric supplier such that the reintegrated system and supply of power and energy thereto in those areas that will continue to be served by the secondary electric supplier will be as adequate and dependable as exists prior to the sale; such reimbursement to include the cost of removal and to be reduced by the salvage of any facilities removed by the secondary electric supplier; (iii) reimburse the secondary electric supplier its original cost depreciated for facilities of the secondary electric supplier excluded from the definition of distribution facilities under Section 4(b)(ii) in which case the

primary electric supplier shall take title to such facilities or, at the option of the secondary electric supplier, reimburse the secondary electric supplier the cost of removal, in which case the secondary electric supplier shall retain title; and (iv) pay to any wholesale supplier of the secondary electric supplier (or if the secondary electric supplier does not purchase its electric supply at wholesale then to the secondary electric supplier) the original cost depreciated of any facilities other than distribution facilities, as described in Section 4(b)(iii), rendered useless by such acquisition of the distribution system of the secondary electric supplier; provided, however, at the election of the owner of such facilities, the payment to be made shall be the cost to such owner of relocating such facilities. The primary electric supplier shall pay the secondary electric supplier the amount determined pursuant to this Act for reproduction cost new less depreciation of the distribution facilities together with the amount due under Section 4(a) (4)(i), (ii), (iii) and (iv) immediately upon transfer of title to the facilities. In addition, to compensate the secondary electric supplier for the loss of future revenues from presently served or future developing premises, and not as compensation for the sale of its facilities, the primary electric supplier shall pay to the secondary electric supplier an amount equal to two and one-half times (2-1/2) the total revenue from electric sales derived by the secondary electric supplier from customers within the existing municipal limits during the twelve (12) months prior to the date escrow notice is given by the primary electric supplier of its election to purchase the facilities. This amount shall be paid in ten (10) equal annual installments beginning on the date the sale of facilities is consummated.

(5) Each affected secondary electric supplier shall have the right to continue to provide service to premises located within the existing municipal limits until such time as the primary electric supplier exercises its option to purchase and until such purchase is consummated pursuant to the procedures established herein. In the event the electric facilities of the secondary electric supplier are subject to an option to purchase as provided herein, the secondary electric supplier shall have the right to continue to maintain such facilities and retail electric service until the primary electric supplier purchases the facilities of the secondary electric supplier. Until the purchase of the facilities of the secondary supplier is consummated, the secondary supplier shall also have the right, subject to consent of the municipality with respect to any construction or operation for which a municipal consent is required, to provide service to any new premises located closer to the existing distribution lines of the secondary electric supplier than to those of the primary electric supplier or any other electric supplier except for new industrial customers having a size equivalent to that specified in Section 3(b) of this Act, if such

new industrial customer has requested service from the primary electric supplier. The compensation required for the purchase of the secondary electric supplier's facilities, by the primary electric supplier of facilities built by the secondary electric supplier pursuant to the previous sentence shall be limited to the reproduction costs new, less depreciation, of facilities constructed to serve such new premises and the primary electric supplier shall not be required to pay any of the other costs specified in Section 4(a)(4). In the event the primary electric supplier does not exercise the option to purchase the facilities of the secondary electric supplier as provided in this Section 4, the primary electric supplier and any other electric supplier shall be prohibited from extending its facilities for service to existing premises being served by the secondary electric supplier or to new premises located closer to the existing distribution lines of the secondary electric supplier than to the existing distribution lines of the primary electric supplier or any other electric supplier under the standards set forth in Section 3. The secondary electric supplier shall have the right to continue to maintain its facilities and service and make extensions to serve new premises within the existing municipal limits under the standards set forth in Section 3, notwithstanding the lack of a municipal franchise from the municipality in which such premises are located, subject, nevertheless, to consent of the municipality for construction or use of the streets, avenues, alleys, or public ways of the municipality to the extent such consent is required.

**(b) Distribution Facilities to be Purchased**

The term "distribution facilities" as used in Section 4(a) shall include distribution lines and other facilities constructed or installed by the electric supplier in the area to which the purchase option applies, for the rendering of retail electric service except (i) meters, (ii) distribution transformers of voltages not compatible with those of the acquiring electric supplier, (iii) substations of such a voltage that are not compatible with operations of the acquiring electric supplier, (iv) facilities for provisions of service by the secondary supplier to premises the electric load of which such secondary supplier may continue to serve under Section 4(a)(3), and (v) such facilities designated by the supplier as necessary to continue its service in an area not subject to the purchase option herein or to serve such supplier's own load.

**Section 5. Resolution of Disputes as to Sales of Facilities or Purchases**

In the event that a dispute should arise between two or more electric suppliers in connection with the purchase of distribution facilities under Section 3 or Section 4 of this Act, the primary electric supplier involved may petition the Circuit Court for the judicial circuit in which the distribution facilities to be purchased are located

to determine such matters as are in dispute between the parties. If the purchase of distribution facilities proposed to be purchased under the escrow notice described in Section 4(a)(1) of this Act is not closed within six (6) months after the date of the escrow notice and if the primary electric supplier has not filed a petition for resolution of disputes in the appropriate court within fourteen (14) days after six (6) months from the date of the escrow notice, then the primary electric supplier's exercise of the option shall be void and of no further effect and the primary electric supplier shall have no right to purchase such facilities thereafter.

If a petition is filed with the appropriate Circuit Court, the sale of the facilities shall be closed within ninety (90) days from the date of the issuance of a final order of the Circuit Court (or from the date of the decision of an appellate court if such matter is appealed). If the closing is not completed within such ninety (90) days due to the failure of the primary electric supplier to close for any reason, the primary electric supplier's exercise of the option shall be void and it shall thereafter have no further right to purchase the distribution facilities covered by the escrow notice.

#### **Section 6. Applicability of Certain Provisions of Title 37**

With respect to any sale of facilities consummated pursuant to the provisions of this Act, the provisions of Section 37-1-50, Code of Alabama (1975), shall not be applicable to such sale or to the cessation by a utility of rendering service from such facilities involved in such sale. To the extent of any conflict between this Act and the provisions of Section 37-4-60 through Section 37-4-65, Code of Alabama (1975), the provisions of this Act shall govern and control.

#### **Section 7. Special Rules for Elimination of Duplication**

The separate agreements listed below which have heretofore been entered into between, or negotiated between retail electric suppliers, have been reviewed by the Legislature, determined to be in the public interest and found not to be inconsistent with the purposes and policies set forth in this Act. In areas to which these agreements are applicable, the procedures for elimination and prevention of duplication of electric distribution facilities set forth in these agreements shall govern. The following agreements are therefore mandated by the State of Alabama to be applicable:

1. Agreement between Cherokee Electric Cooperative (successor to Cherokee County Electric Membership Corporation) and Alabama Power Company dated June 5, 1940.

2. Agreement among the City of Bessemer, Alabama, Alabama Power Company and the Tennessee Valley Authority dated August 12, 1971.

3. Agreement between the City of Tarrant City, Alabama and Alabama Power Company dated June 8, 1983 regarding electric service areas in and around Tarrant City, Alabama.

4. Agreement between Alabama Power Company and Covington Electric Cooperative dated as of January 18, 1985 regarding electric service areas in Enterprise, Alabama.

5. Agreement between Alabama Power Company and Dixie Electric Cooperative dated as of January 2, 1985 regarding electric service areas in Montgomery and Union Springs, Alabama.

6. Agreement between Alabama Power Company and Pea River Electric Cooperative dated January 18, 1985 regarding electric service areas in Ozark, Alabama.

7. Agreement between Alabama Power Company and Tallapoosa River Electric Cooperative dated as of January 18, 1985 regarding electric service in areas of Randolph and Tallapoosa Counties, Alabama.

8. Agreement among Covington Electric Cooperative, the City of Elba, Alabama and the City of Elba Water and Electric Board dated as of January 29, 1985 regarding electric service in and around Elba, Alabama.

9. Agreement between Alabama Power Company and Southern Pine Electric Cooperative dated as of January 18, 1985 regarding electric service areas in Flomaton and Brewton, Alabama.

10. Agreement between South Alabama Electric Cooperative, Inc. and the City of Troy, Alabama dated as of October 14, 1983 and January 31, 1984 regarding electric service in areas around Troy, Alabama, and the sale of distribution facilities.

11. Agreement between Alabama Power Company and Cullman County Electric Cooperative, Inc. dated as of January 2, 1985 regarding electric service areas in Cullman and Winston Counties, Alabama.

12. Agreement between South Alabama Electric Cooperative, Inc. and The City of Brundidge dated April 11, 1984 regarding electric service in and around the City of Brundidge, Alabama.

13. Agreement between Southern Pine Electric Cooperative, Inc. and the City of Evergreen, Alabama as such agreement is reflected in the resolution of the City Council of the City of Evergreen dated June 6, 1967 relating to electric service in the City of Evergreen.

14. Agreements between Covington Electric Cooperative and the City of Andalusia reflected in and reaffirmed by the resolution of the City of Andalusia dated January 29, 1985.

15. Agreement between The Utilities Board of the City of Cullman and the Cullman Electric Cooperative dated November 5, 1954.

If any agreement specified above is hereafter terminated pursuant to provisions of such agreement authorizing such termination, the rules contained in such agreement shall not, thereafter, be binding for the prevention of duplication of electric facilities from and after the date of termination. After such date, the rules established in Sections 3 and 4 hereof shall govern; provided, however, in the event the agreement related to service inside a municipality, the right of the primary electric supplier to exercise an option to purchase facilities under Section 4 of the Act shall be governed by the time limits established in Section 4.

Nothing in this Act shall apply to affect valid regulations or contracts of the Tennessee Valley Authority or other suppliers of electricity who may not be lawfully regulated by the State. Subsequent to the effective date of this Act, suppliers shall be permitted to enter into mutual agreements, approved by the respective governing bodies of all Suppliers affected by the agreement, respecting the nonduplication of lines, that are consistent with the purposes and policies set forth in this act; provided, however, that no subsequent agreement shall be valid unless and until it has been reviewed by the Legislature and the Legislature has amended this section to mandate the implementation of the provisions of such agreement.

**Section 8.** Provision of Retail Electric Service in Violation of this Act

(a) If an electric supplier commences construction of facilities in violation of the provisions of this Act, any aggrieved electric supplier which is designated herein as the entity to provide such service (the "Aggrieved Electric Supplier") may petition the Circuit Court for the judicial circuit in which the facilities are being constructed by the offending electric supplier for an injunction to prevent the offending electric supplier from completing the facilities for provision of the retail electric service in question.

(b) If an electric supplier believes that another electric supplier has already rendered or extended electric service at retail to a premise which was designated to be served by the Aggrieved Electric Supplier, the Aggrieved Electric Supplier shall give notice in writing to the offending electric supplier of the potential violation of this Act. The offending electric supplier shall have forty-five (45) days to determine whether it is in violation of this Act. If the offending electric supplier concludes that it is violating this Act, it may cease rendering and extending electric service at retail to the premises in question at the time and upon the schedule designated in writing by the Aggrieved Electric Supplier and the offending electric supplier shall have no

liability to the Aggrieved Electric Supplier for violation of this Act. If the offending electric supplier does not cease rendering service and remove its distribution facilities within the forty-five (45) day period or within such longer period designated by the Aggrieved Electric Supplier, the Aggrieved Electric Supplier may file suit in the Circuit Court for the judicial circuit in which the rendition or extension occurs to enjoin the offending electric supplier from continuing such rendition or extension and for damages. If a violation of this Act is proved, the offending electric supplier shall (1) remove its facilities constructed for the rendition of retail electric service to the premises at the time and upon the schedule designated in writing by the Aggrieved Electric Supplier; and (2) pay to the Aggrieved Electric Supplier twenty-five percent (25%) of the gross revenues derived by the offending electric supplier from the sale of electric service in violation of this Act from and after the date that is forty-five (45) days after the date on which the notice of violation was given. In addition, the offending electric supplier shall reimburse the Aggrieved Electric Supplier for all witness fees, court costs, reasonable attorneys fees and other expenses incurred in any litigation to enforce the Aggrieved Electric Supplier's rights under this Act. If the violation is not proved, the Aggrieved Electric Supplier shall reimburse the offending electric supplier for all witness fees, court costs, reasonable attorneys fees and other costs incurred in the litigation. All actions or proceedings for injunction or for damages shall be brought within three (3) years after the offending electric supplier first renders or extends electric service at retail in violation of this Act.

**Section 9.** Validation Procedure; Authorization for Validation of provisions of the Act

In order to foster and encourage the underlying policies of this Act and to assure that sales and purchases of distribution facilities, and other transactions and actions authorized or allowed by this Act may be conducted in good faith with a knowledge of the validity of the provisions hereof, and further, to assure that irrevocable commitments are not made in the implementation of the provisions of this Act without the assurance of their legality and validity, the following judicial review process is hereby authorized and it is declared to be the legislative intent that the provisions of this statute be judicially reviewed and validated pursuant to the procedure set forth herein and that the Circuit Court enter a judgment in accordance with the procedure set forth herein.

**(a) Filing of Complaint for Determination as to Legality of Provisions of Act**

At any time subsequent to the effective date of this Act, an affected secondary electric supplier whose distribution facilities are subject to the provisions of this Act and whose facilities may be



purchased pursuant to this Act by a primary electric supplier may, in its discretion before the closing of such purchase, seek judicial determination of the legality and validity of the provisions of this Act. Such complaint shall be filed in the Circuit Court of Montgomery County, Alabama which shall have exclusive venue for the determination of all questions of the legality and validity of the provisions of this Act. The filing of any complaint for validation shall stay the dates established for the closing of all sales of facilities pursuant to the provisions of this Act until, with respect to each situation in which intent to exercise the option to purchase has been or is thereafter announced, a date is established by the mutual agreement of the affected primary and secondary electric supplier, which date shall not be in excess of ninety (90) days after the final resolution of the action to determine the legality and validity of the provisions of this Act, including any appeal therefrom. It is the intention of the Legislature that implementation of the provisions set forth in this Act shall not be stayed, other than as set forth above, during the pendency of any such litigation because of the need to eliminate, as soon as possible, duplication of electric distribution facilities.

(b) Contents of Complaint: Order and Notice of Hearing to Show Cause

(1) The complaint by appropriate allegations, references and/or exhibits shall briefly state the following: the authority for the purchase and sale of distribution facilities and other transactions and restrictions under this Act; the nature of any municipal franchise which will be affected; a general description of restrictions imposed by this Act; and the impact which such restrictions and sale shall have on the parties and the public.

(2) The judge of said court shall, upon the filing and presentation of said complaint, issue an order against the citizens of the state, all municipalities and governmental units and other defendants requiring them to show cause, at a time and place to be designated in said order, which time shall be not less than 35 days nor more than 56 days after the issuance of such order, and which place shall be within Montgomery County, why said purchase and sales and the other transactions and restrictions and all other proceedings under this Act should not be validated and confirmed. Notice of such order shall be given in accordance with (4), (5) and (6) below.

(3) The Attorney General of the State of Alabama shall be the designated representative of the citizens of the State of Alabama and shall appear on their behalf for all purposes in any proceeding brought pursuant to this section.

(4) Prior to the hearing of said cause, the clerk of said court shall publish, in a newspaper of general circulation published in

Montgomery County, once each week for at least three weeks before the hearing, the first publication which would be at least 21 days before such hearing, a notice addressed to the citizens of the State of Alabama and all municipalities and governmental units requiring them, at the time and place specified in the order providing for the hearing of such case, to show cause, if any there be, why said purchase and sale or other transaction and restriction that may be referred to in the complaint should not be validated and confirmed. In addition, the clerk of said court shall also publish notice to the citizens of the state and all municipalities and governmental units in newspapers of general circulation customarily published not less often than five days during each calendar week in the cities of Andalusia, Birmingham, Dothan, Florence, Gadsden, Huntsville, Mobile, Selma and Tuscaloosa. By the publication of such notice, all citizens of the state, all municipalities and governmental units shall become parties defendant to such proceedings, and the court shall have jurisdiction of them the same as if each of them were named individually as party defendants in said complaint and personally served with process.

(5) In addition to the publication and notice set forth in (4) supra, the clerk of the Circuit Court in Montgomery County shall also caused a summons and complaint to be served upon the Attorney General of the State of Alabama as representative of all citizens of the State of Alabama and upon all other parties named as defendants in the action.

(6) The plaintiff shall certify to the court, in writing, with an attached list, that it has mailed a copy, by certified mail, return receipt requested, of the complaint filed in the action to each other electric supplier in the state, as defined in this Act. Said notice to said electric suppliers shall inform them of the time and place of the hearing and shall contain a copy of the complaint filed herein. The notice required by this paragraph shall be mailed not less than 21 days prior to the date set for the hearing.

(7) Each electric supplier, municipality and governmental unit which receives notice pursuant to the provisions set forth in (4), (5) and (6) above, or which receives notice in any manner whatsoever of this action, may petition the court, as a matter of right, to intervene in said action and to participate in the hearing provided for in Section 9(c) below.

(8) The failure of any electric supplier, municipality and/or governmental unit having actual or constructive notice of the proceeding to exercise the right to intervene and participate in the hearing shall be deemed a waiver of any right such electric supplier, municipality or governmental unit may have to participate and to

challenge, contest or otherwise question the validity of any of the provisions of this Act.

(c) Hearing and Entry of Judgment; Appeals from Judgment of Circuit Court

At the time and place designated in said order, the judge of said Circuit Court shall proceed to hear and determine all questions of law and of fact in said civil action, and he shall make such order, or orders, as to the proceedings in said civil action as will best preserve and protect the interests of all parties and to enable him to enter a final judgment with the least possible delay. The final judgment shall find the facts specially and shall state separately the judge's conclusions with regard to any and all legal issues raised with regard to the legality and validity of the provisions of this Act and shall state the judge's conclusions of law thereon. Any citizen of the State may appear in such proceedings, either personally or by attorney, and any party thereto, whether plaintiff, defendant or intervenor, dissatisfied with the judgment of the court may appeal therefrom to the Supreme Court of Alabama in accordance with the Alabama Rules of Appellate Procedure. Such appeal shall take priority in the Supreme Court over all other cases therein pending, except petitions for writs of habeas corpus.

(d) When Judgment of Circuit Court Final and Conclusive as to Validity of Purchase, Sale and Other Transactions or Restrictions Under this Act

If the Circuit Court shall enter a judgment validating the provisions of this Act and no appeal shall be taken within the time prescribed within the Alabama Rules of Appellate Procedure; or, if an appeal is taken and the judgment validating the provisions of this Act shall be affirmed by the Supreme Court; or, if the Circuit Court shall render a judgment refusing to validate the provisions of this Act, and on appeal such judgment shall be reversed by the Supreme Court (in which case the Supreme Court shall issue its mandate to the Circuit Court requiring it to enter a judgment validating the provisions of this Act), the judgment of the Circuit Court validating the provisions of this Act shall be forever conclusive against all citizens of the state, electric suppliers, municipalities and other governmental units having actual or constructive notice of the proceedings as to the validity of the provisions of this Act.

(e) Costs of Proceedings

The court costs in any proceeding brought under this Act shall be paid by the electric supplier commencing the action.

(f) Article Not Applicable Where the Validity of Purchase, Sale or Other Transaction Is in Controversy in Pending Actions or Proceedings

No action shall be commenced challenging the legality or validity of the provisions of the Act, or the legality or validity of a purchase and sale transaction or restriction under this Act where the legality or validity of the Act is in controversy in any prior pending civil action or proceeding in any court or has been determined in any such action. In the event any action is pending in any circuit in the State which raises or challenges the legality or validity of any provision of this Act at the time an action is filed under this Section 9, such pending action shall be transferred to the Circuit Court of Montgomery County and shall be consolidated with the action filed pursuant to this Section 9 and the consolidated proceeding shall be adjudicated in accordance with the procedures set forth in this Act.

#### **Section 10. Effect of Any Ruling of Invalidity**

If any part of Section 3, Section 4 or Section 7 of this Act is declared invalid under the constitution or laws of this state, including invalidity as a result of impairing unconstitutionally the obligations of a municipal franchise, such declaration shall render invalid all parts which remain; provided, however, that any ruling that the provisions of this Act impair unconstitutionally the obligations of any contract other than a municipal franchise shall not render invalid the application of the Act in all instances not covered by such contract. Notwithstanding such invalidity, action taken by any party in conformity with the provisions of this Act shall be considered lawful actions by such party; provided, however, any electric service rendered which would have been illegal or unlawful or violative of any contractual provision absent this Act shall be terminated and the facilities shall be removed following any determination of the invalidity of this Act. In all other respects, the provisions and applications of this Act shall be deemed to be severable and a declaration of invalidity as to any other part or as to any application thereof to any person or circumstance shall not render invalid the parts or application which remain.

#### **Section 11. Repealer**

Except as provided in this Section 11, all laws or parts of laws in conflict with the provisions of this Act are hereby repealed. In the event, as a result of a final adjudication in *Dixie Electric Co-operative, et al. vs. The Citizens of the State of Alabama, et al.*, Civil Action No. CV 84-V-891-N, it is determined that Act No. 84-206 of the Alabama Legislature, Regular Session, was valid and constitutional, such Act No. 84-206 shall remain in effect. The principles of this Act which are inconsistent with the provisions of Act No. 84-206 shall no longer be effective with the following exceptions:

(a) The Agreement adopted as being in the public interest which is listed in Item 11 of Section 7 hereof.

(b) The Agreement adopted as being in the public interest which is listed in Item 12 of Section 7 hereof.

(c) The Agreement adopted as being in the public interest which is listed as Item 13 of Section 7 hereof.

(d) The Agreement adopted as being in the public interest which is listed as Item 14 of Section 7 hereof.

To the extent actions are taken pursuant to this Act which are inconsistent with actions required to be taken under Act No. 84-206, the actions taken hereunder shall be considered lawful. In the event Act No. 84-206 is declared to be valid and constitutional, the time periods for purchase of facilities set forth in Section 4 of such Act shall be extended to occur within nine (9) months from the date of final adjudication of validity.

### **Section 12. Effective Date**

This Act shall become effective upon its passage and approval by the Governor or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on May 17, 1985 without approval by the Governor.

Act No. 85-646

H. 72—Reps. Nicholson, and Martin

### **AN ACT**

Proposing an amendment to Amendment No. 443 to the Constitution of 1901, relating to certain conveyances of Alabama State Docks property to certain local port authorities in the Cordova-Walker County area, the Florence-Lauderdale County area and the Decatur-Morgan County area.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The following amendment to Amendment No. 443 of the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285 and 287 of the Constitution of 1901 as amended:

### **PROPOSED AMENDMENT**

The State of Alabama, through the Alabama State Docks Department, is authorized to convey, without consideration, title to its real property, equipment and facilities located in Lauderdale County, Alabama, and known as the Alabama State Docks to the Florence-Lauderdale County Port Authority, a public corporation, but subject to existing leases and other contractual agreements now in effect.

Any laws or parts of laws or any provisions of the Constitution of 1901, as amended, which are in conflict with this amendment are hereby revised, superseded and repealed to the extent they are in conflict with this amendment.

The State of Alabama, through the Alabama State Docks Department, is authorized to convey, without consideration, title to its real property, equipment and facilities located in Morgan County, Alabama, and known as the Alabama State Docks to the Decatur-Morgan County Port Authority, a public corporation, and in Walker County, Alabama, known as the State Docks in Cordova in Walker County to the Walker County Commission, but subject to existing leases and other contractual agreements now in effect. Any laws or parts of laws or any provisions of the Constitution of 1901, as amended, which are in conflict with this amendment are hereby revised, superseded and repealed to the extent they are in conflict with this amendment. The provisions herein shall be self-executing.

**Section 2.** An election upon the proposed amendment is ordered to be held at the next general, special, primary or constitutional amendment election after the expiration of three months from final adjournment of the current session of the Legislature. The election shall be held in accordance with the provisions of Sections 284 and 285 of the Constitution of Alabama, as amended, and the general election laws of this state.

**Section 3.** Notice of the election and of the proposed amendment shall be given by proclamation of the Governor, which proclamation shall be published once a week for four successive weeks next preceding the day appointed for the election in a newspaper in each county of the state. In every county in which no newspaper is published, a copy of the notice shall be posted at each courthouse and post office.

**Section 4.** The provisions of this act shall be effective immediately upon ratification by the people and the Governor thereafter shall proclaim this amendment as required by law.

Passed the House Feb. 21, 1985

Passed the Senate May 20, 1985

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Act No. 85-647

H. 311—Rep. Pratt

## AN ACT

A bill to supplement the salaries of the District Judges of the Tenth Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The salaries of each judge of the District Court of the Tenth Judicial Circuit shall be supplemented by the county which makes up said Judicial Circuit in an amount so that the total salaries of each judge of the District Court shall be equal to 90% of the total salaries paid to a judge of the Circuit Court of said Judicial Circuit. Said supplement shall be paid in equal bi-weekly installments in the same manner as is paid to a judge of the said Circuit Court, and shall be paid from the general fund of the County of said Judicial Circuit.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** It is further provided that this Act shall not become effective, and that this Act shall not repeal any laws or parts of laws which conflict with this Act, if the salaries paid to the District Judges of the Tenth Judicial Circuit by the State of Alabama are increased by virtue of the recommendations contained in the original Report of the Judicial Compensation Commission to the 1985 Regular Session of the legislature becoming law.

**Section 4.** This act shall be effective October 1, 1985.

Approved May 20, 1985

Time: 11:00 P.M.

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Act No. 85-648

H. 1023—Rep. Turner

**AN ACT**

To amend Sections 40-13-5, 40-13-6, and 40-13-8 of the Code of Alabama 1975, as amended, relating to the deposit and disbursement of the proceeds from certain coal severance taxes so as to provide that the Alabama State Docks Department may receive a portion of those proceeds under certain circumstances; to provide that, upon filing of a notification by the Director of the Alabama State Docks Department with the Director of Finance to the effect that revenues from the Alabama State Docks Department's coal handling facilities are anticipated to be insufficient to pay the expenses (exclusive of depreciation) incurred in operating and maintaining those facilities and to pay principal and interest that came due during such fiscal year on those bonds of the Alabama State Docks Department for payment of which said revenues have been pledged, the Director of Finance may authorize certain payments to the Department in amounts not to exceed the amount of the actual deficiency, computed as described in this Act and, to the extent such payments are so authorized, they are hereby appropriated to the Department; to provide that any moneys remaining in the Alabama State Docks Bulk Handling Facility Trust Fund, once the amounts provided for in this Act have been paid, shall be credited to the State General Fund; to provide further for the termination of said coal severance tax; and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 40-13-5 of the Code of Alabama 1975, as amended, is hereby amended to read as follows:

“§40-13-5. Deposit of proceeds; disbursement and appropriation of funds.

(a) The entire proceeds from the privilege or license tax levied by section 40-13-2 shall be deposited in the state treasury to the credit of the Alabama state docks bulk handling facility trust fund. The proceeds from the special handling charge provided for by Act No. 2306 of the 1971 regular session of the legislature shall be deposited in the state treasury to the credit of a fund to be created and known as the special handling charge fund.

(b) The amounts deposited into such funds shall be disbursed and are hereby appropriated to the extent necessary for such purpose, to pay at their respective maturities, or to redeem under the terms thereof, principal of and interest on any revenue bonds that may at any time be issued pursuant to authorization and any statute adopted at the 1971 regular session of the Alabama legislature or at any other legislative session prior thereto for the purpose of constructing any seaport facility; provided, that amounts deposited into the special handling charge fund shall be first expended to the extent necessary for such purposes before any amounts are drawn from the Alabama state docks bulk handling facility trust fund.

(c) From the balance remaining in the special handling charge fund during each fiscal year there is hereby appropriated and there shall be paid by the state treasurer into a reserve fund or funds established for the bonds until there is on deposit an amount equal to the maximum principal and interest becoming due on the bonds in any one year; to the extent that the balance remaining in the special handling charge fund is inadequate to fully fund the reserve fund, the reserve fund shall be funded from the Alabama state docks bulk handling facility trust fund.

(d) The balance thereafter remaining in the Alabama state docks bulk handling facility trust fund during each fiscal year shall be transferred as provided by section 40-13-6.

(e) The balance, if any, in the special handling charge fund is hereby appropriated and shall be used by the state treasurer to pay, at his discretion, principal and interest on the bonds in future years or to redeem portions of the bonds.”

**Section 2.** Section 40-13-6 of the Code of Alabama 1975, as amended, is hereby amended to read as follows:

§40-13-6. Further use and credit of proceeds to state general fund; report of coal shipped through seaport facility.



In each fiscal year when the funds then on deposit in the special fund or funds created for retirement of the bonds equal the amount needed to pay all the principal and interest becoming payable on the bonds within the succeeding 12 months and the funds then on deposit in the reserve fund or funds created for the bonds equal the maximum principal and interest becoming due on the bonds in any one year, the severance tax proceeds remaining in the Alabama state docks bulk handling facility trust fund, shall be credited to the state general fund; provided however, that if at the end of any fiscal year of the State, beginning with the fiscal year ending September 30, 1987, the Director of the Alabama State Docks Department shall have notified the Director of Finance in writing, at least five (5) days prior to the close of the fiscal year, that the revenues to be derived by the Alabama State Docks Department from the operations of its coal handling facilities for the then current fiscal year are anticipated to be insufficient to pay the aggregate of (a) the expenses (exclusive of depreciation) incurred in operating and maintaining said facilities during such fiscal year and (b) principal and interest that came due during such fiscal year on those bonds of the Alabama State Docks Department for payment of which said revenues have been pledged (which notification shall specify the amount of the expected deficiency), then the remaining severance tax proceeds shall remain in the Alabama State Docks Bulk Handling Facility Trust Fund and shall not be transferred to the State General Fund. Following the filing of such notification, a report shall be filed by the Director of the Alabama State Docks Department with the Director of Finance within thirty (30) days after the close of such fiscal year, supported by such documentation as may be deemed appropriate by the Director of Finance and attesting to the amount of the actual deficiency, computed as described above, incurred in the operation of said facilities during the immediately preceding fiscal year. Upon receipt of said report and such other documentation from the said Department as the Director of Finance may specify, the Director of Finance, if satisfied as to the accuracy of the amount of the actual deficiency as reflected in the report and accompanying documentation, shall authorize to be transferred, and to the extent herein provided there is hereby in such event appropriated, to the Alabama State Docks Department an amount equal to the lesser of (i) the actual amount of any deficiency computed as described herein or (ii) the balance contained in the Alabama State Docks Bulk Handling Facility Trust Fund as of the immediately preceding September 30. Any moneys remaining in the Alabama State Docks Bulk Handling Facility Trust Fund after such transfer to the Alabama State Docks Department shall be credited to the State General Fund.

The director of the Alabama state docks department shall file with the commissioner upon forms prescribed by him and at the

time so designated by the commissioner a report stating the amount of coal shipped through the seaport facility, by whom it was shipped, the date of each shipment and such further information as the commissioner reasonably may require for the proper enforcement of the provisions of this section."

**Section 3.** Section 40-13-8 of the Code of Alabama 1975 is hereby amended to read as follows:

"§40-13-8. Termination of Tax.

The excise and privilege tax imposed by this chapter shall terminate upon the later of the redemption of and payment of all accrued interest on the bonds, as defined herein, or the final maturity of the bonds (excluding any bonds issued for the purpose of refunding any or all of the bonds then outstanding).

**Section 4.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 21, 1985

Time: 1:15 P.M.

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Act No. 85-649

S. 285—Senator Teague

### AN ACT

To provide further for group health insurance for certain retired employees receiving monthly benefits from the employees' retirement system of Alabama or from the teachers' retirement system; to amend section 36-29-10, Code of Alabama 1975, providing for the election by certain employees to continue coverage under the state employees' health insurance plan by the deduction of a portion of the premium for such coverage from their monthly benefit payments, so as to allow the first year funding from the State Employees Health Insurance Plan and the state to assume all subsequent funding; to amend §16-25A-1, Code of Alabama 1975, to further define retired employee under the public education employees' health insurance plan.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-29-10, Code of Alabama 1975, is hereby amended to read as follows:

"§36-29-10.

"Employees covered under this plan who retire from active service and begin receiving monthly benefits from the employees' retirement system of Alabama or from the teachers' retirement system of Alabama or from the teachers' retirement system of Alabama may elect to continue coverage under the group insurance plan by consenting

to have deducted from their monthly benefit payment the difference in the total cost of their insurance coverage and the portion authorized to be expended by the State Employees Health Insurance Plan for coverage of such retired employees. The premiums so deducted shall be transmitted monthly to the state insurance board. Notwithstanding the foregoing provisions no person otherwise eligible for coverage under this plan shall be denied participation therein, for the reason that such person is precluded from having the cost of his coverage deducted from a monthly benefit payment. The board shall adopt such rules and regulations as they deem appropriate and necessary for carrying out the provisions of this subsection."

**Section 2.** (a) There is hereby provided from the funds of the State Employees Health Insurance Plan \$1,592,605.00 (estimated) for the fiscal year beginning October 1, 1985. The state employees' insurance board is hereby authorized to expend \$22.35 per month per eligible retired employee towards coverage for said retired employee for the fiscal year beginning October 1, 1985.

(b) It is the intent of the legislature that subsequent appropriations to the state employees' insurance board pursuant to this act shall be included in the appropriations made for active employees from employer funds pursuant to subsection (c) of Section 36-29-7, Code of Alabama, 1975, beginning with the fiscal year 1986-87 and each year thereafter and shall be increased to fully fund the employer's portion of the benefits provided for in section 36-29-10, Code of Alabama 1975, as amended, provided however for purposes of determining such appropriations to fully fund benefits, each retired employee shall be presumed eligible for medicare coverage and any allocation or appropriation on account of individual retired employees shall be limited accordingly.

**Section 3.** §16-25A-1, Code of Alabama, 1975, is hereby amended to read as follows:

"16-25A-1. When used in this chapter, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **EMPLOYEE.** Any person who is employed full-time in any public institution of education within the state of Alabama which provides instruction at any combination of grades K through 14 exclusively, under the auspices of the state board of education; provided, any person employed part-time by any public institution of education within the state of Alabama which provides instruction at any combination of grades K through 14, exclusively, under the auspices of the state board of education, shall be included in the definition of employee if such person shall agree to have deducted from his compensation a pro rata portion of the premium cost of a

full-time employee, based on the percentage of time such person is employed, in accordance with such rules and regulations as shall be adopted by the board;

(2) **RETIRED EMPLOYEE.** Any person receiving a monthly benefit from the teachers retirement system, who at the time of his retirement was employed by a public institution of education within the state of Alabama which provided instruction at any combination of Grades K-14, exclusively, under the auspices of the state board of education. Any person receiving a monthly benefit from the teachers' retirement system who at the time of his retirement was employed by a state supported post-secondary institution and any person receiving a monthly benefit from the employees' retirement system whose retirement under the employees' retirement system was from a local board of education or a state supported post secondary institution who participated pursuant to §36-27-6, Code of Alabama 1975.

(3) **BOARD.** The public education employees' health insurance board."

**Section 4.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 22, 1985.

Time: 3:00 P.M.

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Act No. 85-650

S. 672—Senators Teague and Barron

### AN ACT

To amend the Alabama Uniform Certificate of Title and Antitheft Act by repealing Section 32-8-48, Code of Alabama, 1975, and by amending Section 32-8-87, Code of Alabama, 1975, to include certain requirements set forth in Section 32-8-48 repealed herein, to remove the requirement of surrendering the vehicle identification number plate in certain instances, to provide for the issuance of a salvage certificate of title and the assignment of same, to exempt insurance companies from titling motor vehicles in the name of the company in certain instances, to redefine total loss motor vehicles for clarity, to require certain other documents or items to be surrendered to the Department of Revenue in certain instances, to provide for an inspection of salvage vehicles before retitling, to make the operation of a theft facility illegal and to provide

for seizure and forfeiture of property used therein, and to provide penalties for engaging in this activity.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-8-48, Code of Alabama, 1975, is hereby repealed.

**Section 2.** Section 32-8-87 of the Code of Alabama, 1975, is amended to read as follows:

Section 32-8-87.

“(a) Each owner of a motor vehicle and each person mentioned as owner in the last certificate of title or a person who acquires a motor vehicle from an owner who scraps, dismantles, destroys or changes the motor vehicle in such a manner that it is not the same motor vehicle described in the certificate of origin or certificate of title, shall within 72 hours thereafter cause the certificate of origin or certificate of title, license plate(s), if any, vehicle identification number plates and any other documents or information required by the department to be mailed or delivered to the department for processing. The department shall, with the consent of any holder of liens noted on the surrendered certificate, enter a cancellation upon its records. Upon cancellation of a certificate of origin or certificate of title in the manner prescribed by this section, the department shall cancel all certificates of origin or certificates of title and all memorandum certificates in that chain of title. A certificate of title for the vehicle shall not again be issued except upon application containing the information the department requires, accompanied by a certificate of inspection in the form and content as specified in this section.

No motor vehicle for which a salvage or junk certificate has been issued by this state or any other state shall be driven or operated on the highways or other public places of this state. However, a vehicle which is in this state and for which a salvage certificate has been issued, and the vehicle is being restored to its operating condition which existed prior to the event which caused the salvage certificate of title to issue, may be moved to and from repair points as necessary by the rebuilder to complete the restoration. A valid Alabama dealer transport (DT) license plate must be displayed on the vehicle during its movement. Any person who violates this subsection shall, upon conviction, be guilty of a Class C misdemeanor and shall be punishable as required by law.”

“(b) When the frame or engine is removed from a motor vehicle and not immediately replaced by another frame or engine, or when an insurance company has paid money or made other monetary settlement as compensation for a total loss of any motor vehicle,

such motor vehicle shall be considered to be salvage. The owner of every motor vehicle in which total loss or salvage has occurred shall, within 72 hours after such total loss or salvage occurs, make application for a salvage certificate of title and forward to the department along with the certificate of origin or certificate of title to the motor vehicle along with its license plate(s), whereupon the department shall process the certificate of origin or certificate of title and plate(s) in a manner prescribed by law or regulation. An insurance company which pays money or makes other monetary settlement as compensation for total loss of a motor vehicle shall at the time of payment or monetary settlement obtain such vehicle's certificate of origin or certificate of title and license plates(s) and, within 72 hours after receiving them, shall forward them along with their application for a salvage certificate, to the department for processing. In the event the payment or monetary settlement was made because of the theft of the vehicle, which shall be considered a total loss as defined in this section, the insurance company shall, in addition to forwarding the properly assigned certificate of origin or certificate of title as provided herein, forward the vehicle's license plate(s), if applicable, to the department as soon as practicable after the vehicle is recovered. However, the license plates(s) need not be surrendered when a stolen motor vehicle is recovered in substantially intact condition and is readily resalable without extensive repairs unless, for just reason, the department considers the vehicle to be a total loss or salvage as defined in this section. When a stolen motor vehicle has been reported to the department in compliance with this section and is later recovered, and for which a salvage certificate has been issued, the owner recorded on the salvage certificate shall assign that certificate to the purchaser. Any person who violates this subsection shall, upon conviction, be guilty of a Class C misdemeanor and shall be punishable as required by law."

"(c) If an insurance company acquires a motor vehicle in settlement of an insurance claim and holds the vehicle for resale and procures the certificate of origin or certificate of title from the owner or lienholder within fifteen (15) days after delivery of the vehicle to the insurance company, and if the vehicle was not a total loss as defined by this section, the insurance company need not send the certificate of origin or certificate of title to the department but, upon transferring the vehicle to another person, other than by the creation of a security interest, the insurance company shall complete an affidavit of acquisition and disposition of the motor vehicle on a form prescribed by the department and deliver the certificate of origin or certificate of title, affidavit and any other documents required by the department to the transferee at the time of delivery of the motor vehicle."

“(d) For the purposes of this section, a total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to any person when it is deemed to be uneconomical to repair the damaged vehicle. the compensation for total loss as defined in this subsection shall not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the motor vehicle. If the estimate of repair exceeds seventy-five percent (75%) of the actual cash value of the vehicle as determined by the estimate of the insurance company, the vehicle identification plate shall be removed and forwarded to the Department of Revenue within seventy-two (72) hours. If this vehicle is rebuilt, the title shall be stamped “rebuilt”.

“(e) It shall be unlawful for the owner of any junkyard, scrap metal processing plant, salvage yard, or motor vehicle dismantler and parts recycler or his agents or employees to have in their possession any motor vehicle which is junk or salvage or a total loss when the manufacturer's vehicle identification number plate(s), authorized replacement vehicle identification number plate(s), or serial plate(s) have been removed, unless previously required to be removed by a statute or law of this state or another jurisdiction, or when the motor vehicle license plate(s) have not been removed therefrom in accordance with the provisions of this section. Any person who violates this subsection shall, upon conviction, be guilty of a Class C felony and shall be punishable as required by law.”

“(f) It shall be unlawful for any person, firm or corporation to possess, sell or exchange, offer to sell or exchange, or to give away any certificate of origin, certificate of title, salvage certificate of title, manufacturer's identification number plate(s), authorized replacement vehicle identification number plate(s), serial plate(s), or motor vehicle license plate(s) of any motor vehicle which has been scrapped, dismantled or sold as junk or salvage or as a total loss contrary to the provisions of this section, and every officer, agent or employee of any person, firm or corporation, and every person who shall authorize, direct, aid in or consent to the possession, sale or exchange or offer to sell, exchange or give away such certificate or origin, certificate of title, salvage certificate of title, manufacturer's vehicle identification number plate(s), authorized replacement vehicle identification number plate(s), serial plate(s), or motor vehicle license plate(s) contrary to the provisions of this section, shall, upon conviction, be guilty of a Class C felony and shall be punishable as required by law.”

“(g) The department is authorized to issue a salvage certificate of title for a fee of \$4.00, on a form prescribed by the department which shall provide for assignments of this title. Such salvage certificate of title is to replace a certificate of origin or certificate of

title required to be surrendered by this section. The department shall prescribe necessary forms and procedures to comply with the provisions of this subsection."

"(h) It shall be unlawful for any person to sign as assignor or for any person to have in his possession a salvage certificate of title which has been signed by the owner as assignor without the name of the assignee and other information called for on the form prescribed by the department. Any person who violates this subsection, upon conviction, shall be guilty of a Class C misdemeanor and shall be punishable as required by law."

"(i) Every owner of a salvage or junk motor vehicle who sells or transfers said vehicle shall provide at the time of the delivery of the vehicle a properly executed assignment and warranty of title to the transferee in the space provided therefor on the salvage certificate of title or junk certificate of title or as the department prescribes. Any person who willfully violates this subsection shall, upon conviction, be guilty of a Class C misdemeanor and shall be punishable as required by law."

"(j) The department may issue a certificate of title to any motor vehicle for which a salvage certificate has been issued by this or any other state, and such vehicle has, in this state, been completely restored to its operating condition which existed prior to the event which caused the salvage certificate of title to issue, provided that all requirements of Section 32-8-87, Code of Alabama, 1975, as amended, have been met. However, no certificate of title shall be issued for any motor vehicle for which a "junk" certificate has been issued or for a vehicle which is sold "for parts only".

"(k) Every owner of a salvage motor vehicle designated a 1975 year model and all models subsequent thereto which is in this state and which has been restored in this state to its operating condition which existed prior to the event which caused the salvage certificate of title to issue shall make application to the department for an inspection of the vehicle in the form and content as determined by the department. Each application for inspection of a salvage vehicle which has been so restored shall be accompanied by the following:

1. The outstanding salvage certificate or out of state title previously issued for the salvage vehicle.

2. Notarized bills of sale evidencing acquisition of all major component parts (listing the manufacturer's vehicle identification number of the vehicle from which the parts were removed, if parts contain—contain or should contain the manufacturer's vehicle identification number) used to restore the vehicle.



3. The owner shall also provide a written affirmation which states the following:

(a) He personally rebuilt the vehicle or personally supervised its rebuilders, and what has been done to restore the vehicle to its operating condition which existed prior to the event which caused the salvage certificate to issue.

(b) He personally inspected the completed vehicle and it complies with all safety requirements set forth by the State of Alabama and any regulations promulgated thereunder.

(c) The identification numbers of the restored vehicle and its parts have not, to the knowledge of the owner, been removed, destroyed, falsified, altered or defaced.

(d) The salvage certificate document or out of state title certificate attached to the application has not to the knowledge of the owner been forged, falsified, altered or counterfeited.

(e) All information contained on the application and its attachments is true and correct to the knowledge of the owner."

"(1) The fee for each inspection of a restored vehicle shall be \$75.00, payable by certified funds to the department, which must accompany the application. All such inspection fees received by the department shall be applied toward the personnel and maintenance costs of the vehicle inspection program and such vehicle inspection program shall be conducted by the Alabama Department of Revenue, office of Investigations and Inspections. Upon receipt of the application for inspection, fee of \$75.00, its supporting documents and title fee of \$4.00 (payable by certified funds to the department by separate check), the department shall require an inspection to be made of the vehicle by a qualified agent or law enforcement officer of the Alabama Department of Revenue.

The inspection and certification shall include an examination of the vehicle and its parts to determine that the identification numbers of the vehicle or its parts have not been removed, falsified, altered, defaced, destroyed, or tampered with, that the vehicle information contained in the application for certificate of title and supporting documents is true and correct and that there are no indications that the vehicle or any of its parts are stolen. Such certification shall not attest to the roadworthiness or safety condition of the vehicle."

"(m) Component parts are defined as:

1. Passenger vehicles.

(a) Major components:

1. Motor or engine.

2. Transmission or trans-axle.

3. Trunk floor pan or rear section and roof.

4. Frame or any portion thereof (except frame horn), or, in the case of a unitized body, the supporting structure which serves as the frame, except when it is a part of the trunk floor pan, or rear section and roof.

5. Cowl, firewall, or any portion thereof.

6. Roof assembly.

(b) Minor Components:

1. Each door allowing entrance to or egress from the passenger compartment.

2. Hood.

3. Each front fender or each rear fender when used with a rear section and roof.

4. Deck lid, tailgate or hatchback (whichever is present).

5. Each quarter panel.

6. Each bumper.

7. T-tops, moon roof, or whichever is present.

2. Truck, trunk type or bus type vehicles.

(a) Major components:

1. Motor or engine.

2. Transmission or trans-axle.

3. Frame or any portion thereof (except frame horn), or, in the case of a unitized body, the supporting structure which serves as the frame.

4. Cab.

5. Cowl or firewall or any portion thereof.

6. Pickup box.

7. Body or bed.

8. Roof assembly.

9. Cargo compartment floor panel or passenger compartment floor pan.

(b) Minor Components:

1. Each door.

2. Hood.
  3. Grill, except on one ton or smaller trucks.
  4. Each bumper.
  5. Each front fender.
  6. Roof panel and rear cab panel.
  7. Each rear fender or side panel.
3. Motorcycle - Component parts.
- (a) Engine or motor.
  - (b) Transmission or trans-axle.
  - (c) Frame.
  - (d) Front fork.
  - (e) Crankcase."

"(n) A salvage vehicle which has been restored in this state to its operating condition which existed prior to the event which caused the salvage certificate of title to issue shall be issued a certificate of title which shall contain the word "Rebuilt." However, a passenger vehicle, truck-type or bus-type vehicle restored with a combination of no more than two (2) major component parts, as defined above, and no more than four (4) minor component parts, as defined above; or a combination of no more than six (6) minor component parts, as defined above, shall be issued a certificate of title without "Rebuilt" appearing thereon. A motorcycle restored with less than two (2) component parts, as defined above; shall be issued a certificate of title without "Rebuilt" appearing thereon.

**Section 3.** For the purposes of this section, the following definitions shall apply:

(a) A theft facility means any area, building, storage lot, field, or any other premises or place where one or more persons are engaged in altering, dismantling, reassembling or in any way concealing or disguising the identity of a stolen motor vehicle; or any area, building storage lot, field, or any other premises or place where there are three or more stolen motor vehicles present or where there are component parts from three or more stolen vehicles present.

(b) For the purpose of this section, "Major Component Part" means one of the following sub-assemblies of a motor vehicle regardless of its actual market value; front end assembly, including fenders, grill, hood, bumper and related parts; engine; transmission; T-Tops; rear clip assembly, including quarter panels and floor panel

assembly, doors, tires, tire wheels, frame, and continuous treads and other devices.

(c) "Motor Vehicle" includes every device in, upon, or by which any person or property is or may be transported or drawn upon a highway which is self-propelled or which may be connected to and towed by a self-propelled device, and also includes any and all other land based devices which are self-propelled but which are not designed for use upon a highway, including but not limited to farm machinery, bulldozers, and steam shovels.

(1) Any person who shall knowingly own, operate or conduct a theft facility or who knowingly aids and abets another person in owning, operating or conducting a theft facility shall be guilty of a Class C felony and shall be punishable as required by law. In addition to any punishment rendered, each such person convicted shall be subject to the laws regarding restitution of the State.

(2) Upon proper process and hearing as required by the State of Alabama in forfeiture proceedings, including notifying any lien holders, the following property may be seized and held for forfeiture, as described above, when any person is charged with a violation of this section, such forfeiture and sale to take place after conviction:

(a) Any engine, tool, machine, implement, device, chemical, or substance used or designed for altering, dismantling, reassembling or in any other way concealing or disguising the identity of a stolen motor vehicle or any major component part.

(b) Any stolen motor vehicle or major component part found at the site of a theft facility or any motor vehicle or major component part for which there is a probable cause to believe that it is stolen.

(c) A wrecker, car hauler, or any other motor vehicle that is used or has been used to convey or transport a stolen motor vehicle or major component part.

(3) All such proceeds of forfeiture and sale shall be divided equally between the district attorney's fund who proceeded with the forfeiture and sale and the Alabama Department of Public Safety, Auto Theft Division, or its successor.

(4) The records pertaining to a salvage vehicle, junk vehicle, new vehicle, rebuilt vehicle, or the parts of a vehicle, shall be available for inspection by an agent or employee of the Department of Public Safety during normal business hours.

(5) Failure to allow inspection or interference with an agent or employee of the Department of Public Safety inspecting the records of a rebuilder, salvage yard, motor vehicle dealer, reconitioner or

salvage sales shall, upon conviction, be guilty of a Class A misdemeanor and shall be punishable as provided by law.

**Section 4. Severability.**

The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5. Repealer.**

All laws or parts of laws or rules in conflict or inconsistent with this Act are hereby repealed.

**Section 6. Effective Date.**

This Act shall become effective on the first day of the second month following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 24, 1985

Time: 3:30 p.m.

Act No. 85-651

S. 453—Senators Foshee and Teague

**AN ACT**

To conditionally appropriate from the State Lands Fund the sum of \$13,500,000 to the Department of Conservation and Natural Resources for the fiscal year beginning on October 1, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby appropriated from the State Lands Fund to the Department of Conservation and Natural Resources for the fiscal year beginning on October 1, 1985, the following amounts:

(1) Outdoor Recreation Sites and Services Program—

(a) \$3,000,000 for construction of Frank Jackson State Park.

(b) \$4,150,000 for ordinary expenses and other capital outlay projects.

(c) \$750,000 for the acquisition of Cathedral Caverns.

(2) Wildlife and Game Program—\$3,000,000 for ordinary expenses and land acquisition.

(3) Marine Resources Program—\$1,600,000 for ordinary expenses and oyster reef improvements.

(4) Land Survey Program—\$400,000 for ordinary expenses.

(5) Marine Police Program—\$300,000 for expenses related to establishing coastal search and rescue capability.

(6) State Land Management Program—\$200,000 for expenses related to monitoring oil and gas exploration activities in Alabama's coastal waters and adjacent federal OCS waters.

(7) Administrative Services Program—\$100,000 for ordinary expenses.

**Section 2.** The appropriations made herein are in addition to any other appropriations made to the Department of Conservation and Natural Resources for the 1986 fiscal year, and they are conditioned upon approval by the voters of Alabama of the constitutional amendment establishing The Alabama Trust Fund, Act No. 85-79.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, except as otherwise herein provided, or upon its otherwise becoming a law.

Approved May 28, 1985

Time: 2:45 P.M.

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Act No. 85-652

S. 12—Senator Amari

### AN ACT

To provide a procedure whereby a person whose primary condition is mental retardation and who is accused of a crime may be identified after his arrest so that insofar as is possible within the existing criminal justice system, such individual can be most fairly processed in view of his special problems.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act shall be known as the "Retarded Defendant Act."

**Section 2.** For the purpose of this act, the following terms shall have the respective meanings ascribed by this section:

(1) COURT. The court having jurisdiction over the offense charged.

(2) DEFENDANT. Any person accused of a criminal offense against state laws.

(3) MENTALLY RETARDED PERSON. A person with significant subaverage general intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period, as measured by appropriate standardized testing instruments.

**Section 3.** Following the arrest and detention of any person for an offense against the laws of this state, either the defendant or the state may, by verified affidavit filed with the court having jurisdiction, establish that the defendant is a person who has been identified as mentally retarded and has received or is presently receiving services through the Department of Mental Health and Mental Retardation, a program certified by the Department of Mental Health and Mental Retardation, or the Department of Education.

**Section 4.** The verified affidavit shall be furnished to the trial Judge, prosecutor, and defendant's attorney. Said affidavit may be used in connection with the decisions relative to bail hearings, determination of place of detention, and ultimate disposition of such case.

**Section 5.** If the defendant is determined by the court to be mentally retarded, the judge may:

(a) Consider the information submitted in determining the need for pretrial release along with appropriate conditions, or

(b) Order that the defendant, if he is not released, be accorded placement consistent with his special status so as to better protect him during this period of pretrial confinement.

**Section 6.** The verified affidavit shall become a part of the court record and shall be available for proper use in bail hearings, determination of place of detention, and ultimate disposition of such case.

**Section 7.** No information gained as a result of the provisions of this act shall be admissible in evidence either for or against the defendant on the issue of guilt in any criminal proceeding.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** Upon its passage and approval by the Governor, or upon its otherwise becoming a law, this act shall become effective on July 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-653

S. 162—Senator Denton

## AN ACT

To amend Section 37-3-32 relating to Public Service Commission appropriations and increasing the registration fees of motor carrier vehicles.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 37-3-32 of the Code of Alabama 1975 is hereby amended to read as follows:

“Section 37-3-32. Fees.

“In addition to all of the taxes and fees prescribed by law, motor carriers shall pay to the commission under the provisions of this chapter the following:

“(1) Every application for a certificate of public convenience and necessity or permit under this chapter shall be accompanied by an application fee in the amount of \$100.00.

“(2) Every application for an amendment of a certificate of public convenience and necessity or permit shall be accompanied by an application fee of \$100.00.

“(3) Every application for transfer of a certificate of public convenience and necessity or permit shall be accompanied by a fee of \$25.00.

“(4) Every application for approval of a lease of a certificate of public convenience and necessity for a period of more than six months shall be accompanied by a fee of \$10.00.

“(5) For every motor vehicle to be used by a motor carrier on the highways of the state of Alabama there shall be paid a registration fee in the amount of \$3.00 until October 1, 1987 and in the amount of \$4.00 thereafter, and the Commission is given authority to adopt reasonable rules and regulations for the issuance of an appropriate or distinguishing number for each such motor vehicle upon which the registration fee prescribed by this chapter shall have been paid and such registration or distinguishing number shall remain with the motor vehicle for which it was issued and shall be nontransferable. It shall be unlawful for a motor vehicle to be operated on the highways of this state without having conspicuously displayed on the sides thereof a registration or distinguishing number duly prescribed and issued for such vehicle by the commission under the provision of this chapter.

“(5) a. Of such registration fee, \$1.00 shall be paid into the state treasury in the motor carrier fund as provided in this section. The



remaining portion of this fee shall be paid over to the treasurer and shall be held in the commission's operating fund, and shall be paid out by the treasurer in payment of expenses incurred by the commission in the regulation of motor carriers upon warrants drawn as provided by law upon the treasurer and approved as required by law.

The Commission may negotiate and enter into written reciprocity agreements with other states regarding the payment of these fees.

"All said tax penalties, fees and allowances collected under this chapter except those registration fees in excess of \$1.00 collected under subsection (5) above shall be paid into the state treasury within 30 days after their receipt and shall be kept separate and apart from all other funds by the state treasury in a fund to be known as the 'motor carrier fund'."

"Upon the effective date of this Act, the additional revenue generated herein shall be over and above the appropriation of the Alabama Public Service Commission for Fiscal Year 85-86."

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-654

S. 487—Senators Parsons, Bishop  
and Cooley

### AN ACT

To provide a salary increase by the state for the official court reporters who are not covered by the state merit system and to provide an effective date and to limit cost of living increases for court reporters who are affected by this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Beginning on October 1, 1986, the state salary of all court reporters employed by the Administrative Office of Courts not covered by the merit system of the state of Alabama shall be not less than \$25,850.68.

**Section 2.** In the event a cost of living pay raise bill for all state employees is enacted during the 1986 Regular Session of the Legislature, then no official state court reporter who receives any

increase in compensation under the terms of this act shall be entitled to such cost of living increase granted in any such law.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the parts which remain.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-655

S. 450—Senator Denton

### AN ACT

To amend Sections 41-9-780, 41-9-781, 41-9-782, 41-9-783, 41-9-786, 41-9-787, Code of Alabama 1975, which creates the Tennessee Valley Authority Exhibit Commission of Alabama, so as to change the name of the Commission to the Tennessee Valley Exhibit Commission; to alter the composition of the Commission, and to provide further for the issuance of obligations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 41-9-780, 41-9-781, 41-9-782, 41-9-783, 41-9-786, 41-9-787, Code of Alabama 1975, are hereby amended to read as follows:

“§41-9-780.

“There is hereby created and established a state agency to be known as the Tennessee Valley Exhibit Commission of Alabama, which shall be a public body corporate with all the powers and privileges of a corporation, for the purpose of providing for and participating in the management and control of facilities to house and display such visual exhibits of energy related hardware and examples of technology used therefor as may be made available by the Tennessee Valley Authority, the energy research and development administration, other federal and state agencies, including universities and colleges, and other public and private sectors engaged in energy related activities. Such facility shall constitute a permanent housing for the Tennessee valley exhibit, which shall be open to the general public and shall be located at a place to be designated in the vicinity of the Muscle Shoals area for a nominal cost through the cooperation

of the Tennessee Valley Authority or at such other locations as the commission may deem appropriate. The commission is further empowered to provide facilities for the housing and display of energy related hardware and technology, navigational river and tributary development practices, agriculture technology and innovations and wildlife and environmental practices and protections, and mankind and his historical achievements and mementos of the Tennessee Valley Authority. All such facilities shall be principally constructed out of colitic shadow vein Alabama limestone. The commission is further empowered to establish an information and exhibit center in order to provide information to the public on research and development in the field of energy related hardware and technology, navigational river and tributary development practices, agriculture technology and innovations, wildlife and environmental practices and protections and mankind and his historical achievements as developed by the Tennessee valley authority, the energy research and development administration, other federal and state agencies, including universities and colleges, and other public and private sectors engaged in energy related activities."

"§41-9-781.

"The commission created herein shall consist of 16 members, to be appointed by the governor and shall be bona fide residents and qualified voters of this state. The sixteen (16) members of the commission shall be appointed one each from the following counties of: Blount, Cherokee, Colbert, Cullman, DeKalb, Etowah, Franklin, Jackson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan and Winston in such a manner as to provide general representation on the commission, but all members shall be qualified persons of unquestioned loyalty to their country who are knowledgeable and interested in energy, river development, agriculture, wildlife and mankind and in the promotion of interest in such fields. Eight of the original members shall be appointed for terms of four years, and eight members shall be appointed for terms of eight years. Thereafter, all members shall serve for terms of eight years. All members shall serve until their successors are appointed and qualified, but any member may be removed by the Governor for just cause. Vacancies for any reason whatsoever shall be filled in the same manner as original appointments are made. The first chairman of the commission shall be appointed by the Governor from among the original appointees. Thereafter, each succeeding chairman shall be selected by the other members of the commission. Members of the commission shall serve without compensation. The commission shall hold at least one annual meeting at the site of the exhibit, and one half of the members shall constitute a quorum for the transaction of any business which may properly come before the commission at any such meeting. The commission shall be authorized to provide

for an executive committee of not fewer than five of its members to whom it may delegate such powers and authority as the commission may deem to be advisable.”

“§41-9-782.

“The commission shall be authorized:

“(1) To investigate and select an available site for housing the exhibits, including the surrounding grounds, in cooperation with the Tennessee valley authority and the community, taking into consideration all pertinent factors affecting the suitability of such site;

“(2) To acquire by rent or lease agreement or otherwise the necessary housing facilities and to establish, improve and enlarge the available facility, including providing it with necessary equipment, furnishings, landscaping and related facilities, including parking areas and ramps, roadways, sewers, curbs and gutters;

“(3) To enter into such contracts and cooperative agreements with the local, state and federal governments, with agencies of such governments, including the Tennessee valley authority, with private individuals, corporations, associations and other organizations as the commission may deem necessary or convenient to carry out the purpose of this article, such contracts and agreements to include leases to private industry;

“(4) To borrow money from private sources or such other source as may be acceptable to the commission under such terms and conditions as may be provided by law and, in order to provide security for the repayment of any such private loans, to pledge such future revenues from admissions and any other sources as may from time to time be necessary or desirable.

“(5) To issue and sell at any time, and from time to time, its revenue obligations for the purpose of providing funds to acquire, enlarge, improve, equip and maintain a facility and for the payment of obligations incurred for such purposes. The principal and interest on any such obligations shall be payable from revenues derived from the project and from such other sources as the commission may deem necessary to provide sufficient security for the marketing of said obligations;

“(6) To make such contracts in the issuance of its obligations as may seem necessary or desirable to assure their marketability and to provide for their retirement by a pledge of all or any revenue which may come to the commission from the investment of the proceeds of the sale of such obligations or from any other source whatsoever;

“(7) To accept public or private gifts, grants and donations;

“(8) To acquire property by purchase, lease, gift or license, such power not to include the purchase of a site for the facility;

“(9) To allocate and expend funds from all donations, income and revenue from any source whatsoever coming into its treasury for the fulfillment and accomplishment of its duties and responsibilities in such manner as may be necessary and appropriate for the perfection of the purposes of this article;

“(10) To sell, convey, transfer, lease or donate any property, franchise, grant, easement, license or lease or interest therein which it may own and to transfer, assign, sell, convey or donate any right, title or interest which it may have in any lease, contract, agreement, license or property;

“(11) To employ an executive director and such additional personnel as may be necessary to accomplish the purposes of this article. The executive director and such additional personnel as may be employed by the commission will serve at the pleasure of the commission. The commission shall fix the compensation of the executive director, and such additional personnel and such compensation shall be paid from any funds of the commission. The commission shall designate the duties and authority of the executive director and such additional personnel. The executive director and such additional personnel shall not be subject to the provisions of the state Merit System Act; provided, however, that they shall be eligible for participation in the state health insurance plan and benefits as provided, and they shall be eligible for participation in the state employees' retirement system under the provisions governing counties, cities, towns and other quasi-public organizations of the state;

“(12) To make such rules and regulations as the commission may deem necessary and desirable to provide for the operation, management and control of the facility; and

“(13) To perform such other acts necessary or incidental to the accomplishment of the purposes of this article, whether or not specifically authorized in this section, and not otherwise prohibited by law.”

“§41-9-783.

“All revenue obligations issued by the commission shall be solely and exclusively the obligations of the commission and shall not create an obligation or debt of the state or of any county or of any municipality within the state.”

“§41-9-786.

“The commission, its property and income and all obligations issued by the commission, the income from such obligations or from

the investment of such income and all conveyances, leases, mortgages and deeds of trust by or to the commission shall be exempt from all taxation in the state of Alabama.”

“§41-9-787.

“The provisions of this article shall be construed liberally, it being the purpose to provide in this state appropriate housing facilities for displaying to the general public exhibits of such hardware, technology, innovations, achievements, mementos, practices and protections as enumerated in section 41-9-780, and for providing for the management and control of that portion of the display furnished and supplied by the Tennessee valley authority by such means as may be feasible and agreed upon.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-656

S. 94—Senator Hilliard

### AN ACT

To provide for the appointment of one additional employee to serve as a confidential assistant in the clerk's office of the Court of Criminal Appeals, to provide for the duties of that employee, to fix the compensation and to make an appropriation for carrying out the provisions of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The judges of the Court of Criminal Appeals are hereby authorized to appoint and employ one additional clerical employee to serve in the office of the clerk of the Court of Criminal Appeals.

**Section 2.** The duties of this employee shall be to assist the clerk of the Court and perform such duties as may be required by the judges of the Court.

**Section 3.** This employee shall serve as a confidential assistant to the Court and shall be subject to the Merit System Act only as to pay plan.

**Section 4.** There is hereby appropriated the sum of twenty-six thousand dollars (\$26,000.00) for the fiscal year 1984-85 and the sum of twenty-eight thousand dollars (\$28,000.00) for the fiscal year 1985-86 for carrying out the provisions of this act.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-657

S. 66—Senators Amari, Bennett,  
Horn, Aldridge, Foshee,  
Langford, and Hilliard

### AN ACT

To be known as the “Long-term Residential Health Care Recipient Ombudsman Act”; to provide general definitions; to authorize the State Long-Term-Care Ombudsman and the Alabama Commission on Aging to investigate complaints concerning health care facilities and those providers and institutions which treat patients or residents of health care, domiciliary or residential facilities to; certify community ombudsmen; to provide for the selection training, and duties of community ombudsmen; to establish procedures for receiving, investigating, and resolving complaints; and to provide an effective date.

*Be It Enacted by the Legislature of Alabama:*

#### **Section 1.** Short Title.

This Act shall be known and may be cited as the Long-term Residential Health Care Recipient Ombudsman Act.

#### **Section 2.** Definitions.

For the purposes of this Act, the following words shall have the meanings ascribed to them by this section:

**ADMINISTRATOR.** Any person charged with the general administration or supervision of a health care, domiciliary or residential facility without regard to whether such person has an ownership interest in such facility or to whether such person's functions and duties are shared with one or more other persons.

**COMMISSION.** The Alabama Commission on Aging.

**COMMUNITY OMBUDSMAN.** A person selected by an Area Agency on Aging who is then trained and certified as such by the Commission pursuant to Section 4 of this Act.

**HEALTH CARE FACILITY.** Any skilled nursing facility, intermediate care facility, domiciliary, boarding home facility or hospital now or hereafter subject to regulation or licensure by the Bureau of Licensure and Certification of the State Department of Health or a County Department of Health which provides any generally accepted

facet of long-term residential health care or treats any recipient of long-term residential health care.

**LONG-TERM RESIDENTIAL HEALTH CARE.** Those health care services rendered to an individual who is a resident in-patient of a health care facility for any period which is expected to exceed ninety (90) days.

**OMBUDSMAN.** The state ombudsman or any community ombudsman.

**RECIPIENT.** Any person receiving long-term residential health care treatment in any health care facility in all its aspects including, but not limited to, admission, retention, confinement, commitment, length of stay, transfer, discharge, physical examination, issuing or filling a prescription for a controlled pharmaceutical substance, dispensing drugs or medication, counseling and/or treatment, and any instances directly related.

**STATE OMBUDSMAN.** The State Long-Term Residential Health Care Recipient Ombudsman, currently known as the Nursing Home Ombudsman of the Alabama Commission on Aging. The state ombudsman shall be appointed by the Commission and shall report to the Executive Director of the Commission.

### **Section 3. Duties of the State Ombudsman and the Commission.**

The state ombudsman and the Commission are hereby authorized to investigate complaints concerning health care, domiciliary and residential care facilities. The state ombudsman shall promote the well-being and quality of life of long-term residential health care recipients and encourage the development of community ombudsman activities at the local level. After appropriate training and approval by the Commission, community ombudsmen shall be certified by the Commission and shall have the powers and responsibilities set forth in Sections 4 and 6 of this Act, subject to the procedures established by the state ombudsman pursuant to Section 5 of this Act. The state ombudsman shall submit to the Commission on annual written report documenting the kinds of complaints and problems reported so that the Commission can make recommendations concerning needed policy, regulatory, and legislative changes.

### **Section 4. Community Ombudsmen; Selection; Training; Duties.**

(1) Each Area Agency on Aging funded by the Commission shall select at least one community ombudsman in each Planning and Service Area established according to regulations issued pursuant to the Older Americans Act of 1965, as amended. The community ombudsman shall be an employee or contractual employee of the Area Agency on Aging and shall certify to having no association with any health care facility or provider for reward or profit.



(2) The duties of each community ombudsman shall be as follows:

(a) To receive, investigate, respond to, and attempt informally to resolve complaints made by or on behalf of recipients;

(b) To report immediately instances of fraud, abuse, neglect, or exploitation to the Department of Pensions and Security for investigation and follow-up pursuant to the Adult Protective Services Act of 1976 and the Child Abuse and Neglect Act;

(c) To serve as a third-party mechanism for protecting the health, safety, welfare, and human rights of recipients;

(d) To report immediately any complaint that cannot be resolved informally to the state ombudsman for appropriate action under Section 8 of this Act;

(e) To collect data about the number and kinds of complaints handled; and

(f) To report regularly to the state ombudsman about the data collected and activities of the community ombudsman program.

(3) A description of the operation of its community ombudsman program shall be included by each Area Agency on Aging in its Area Plan, which is subject to the approval of the Commission.

(4) Each Area Agency on Aging shall immediately notify the Commission of the selection of, and request the certification of, prospective community ombudsmen.

(5) The state ombudsman shall arrange for the training of all prospective community ombudsmen selected by Area Agencies on Aging. Such training shall include instructions in at least the following subjects as they relate to health care:

(a) The responsibilities, duties and authority of community ombudsmen;

(b) The laws and regulations governing the receipt, investigation, and resolution of complaints;

(c) the role of local, state and federal agencies that regulate health care facilities;

(d) The different kinds of health care facilities in Alabama and the services provided in each setting;

(e) The special needs of the elderly and of the physically and mentally handicapped;

(f) The role of the family, the sponsor, the legal representative, the physician, the church and other public and private agencies, and the community;

(g) How to work with health providers, medical professionals and staff;

(h) The laws and regulations governing Medicare, Medicaid, Social Security, Supplemental Security Income, and the Veterans Administration; and

(i) The licensure requirements for administrators of hospitals, nursing homes, home health care agencies, etc., including familiarity with the actual information required to obtain the various licenses.

(6) Persons selected by Area Agencies on Aging who shall have satisfactorily completed the training arranged by the state ombudsman shall be certified as community ombudsmen by the Commission. The certification can be terminated at any time by the Alabama Commission on Aging or appropriate Area Agency on Aging;

(a) When the community ombudsman is no longer employed by the Alabama Commission on Aging or Area Agency on Aging;

(b) For cause.

(7) Each Area Agency's on Aging Advisory Council shall appoint a subcommittee to advise it in the operation of its community ombudsman program. The number and qualifications of members of the advisory subcommittee shall be determined by the Area Agency on Aging but shall contain adequate representation from the various types of health facilities covered under the Area Agency community ombudsman plan.

**Section 5.** Procedures for receiving complaints; posting requirements.

The state ombudsman shall establish written procedures for receiving complaints involving long-term residential health care facilities and their employees. The Commission on Aging shall provide to health care, domiciliary and residential facilities written information on the ombudsman program to be distributed to recipients at the time of admission, or rendering of care and/or treatment at a facility.

**Section 6.** Procedures for resolving complaints.

(1) A community ombudsman's access to any health care facility shall be limited to standard operating hours unless prior arrangements with the operator of the facility has been made. If the complaint involves more than one provider or alleges to involve more than one provider, the ombudsman shall investigate all providers.

(2) Any complaint requiring remedial action and deemed valid by the ombudsman shall be identified and brought to the attention of the administrator or provider involved and followed up in writing

within a reasonable time. Upon receipt of such document, the administrator or provider, in coordination with the ombudsman, shall establish a course of appropriate remedial action. If the remedial action is not forthcoming within a reasonable time, the ombudsman must refer the case to the state ombudsman who may take any one or more of the following actions:

(a) Allow more time if the state ombudsman has reason to believe such action would facilitate resolution of the complaint;

(b) Refer a complaint regarding a nursing home, hospital or domiciliary in writing to the Bureau of Licensure and Certification.

(c) Refer a complaint regarding a boarding house to the appropriate agency and request that appropriate action be initiated.

(d) Refer any and all complaints arising out of or in any way related to the provision of any medical or surgical service or medical care and treatment to a recipient by a physician licensed to practice medicine in Alabama, in whatever setting the said complaint should arise, to the State Board of Medical Examiners only.

(3) The Commission on Aging, the state ombudsman and the affected community ombudsman shall be kept advised and shall be notified in writing by the state agency of the resolution of any complaint that has been referred to the state agency by the state ombudsman.

(4) Any ombudsmen shall respect the right to privacy of all involved parties when engaged in resolving complaints. Any requests to review information concerning the medical condition of a recipient or any health care facility records of a recipient must be accompanied by a current valid duly executed authorization and release which has been signed by the recipient or by one legally authorized to act on behalf of the recipient. Requests for copies of any medical records must be accompanied by a current valid duly executed authorization and release which has been signed by the recipient or by one legally authorized to act on behalf of the recipient. Any physician providing medical information and/or copies of medical records and any health care facility providing copies of health care facility medical records shall be entitled to the payment of a reasonable charge for the preparation and/or reproduction of the records. Information concerning any aspect of a complaint resolution proceeding shall be kept confidential and shall not be disclosed by an ombudsman to any person not directly involved in the particular complaint, except in strict accordance with the provisions of this act. Such disclosure shall result in the ombudsman's dismissal.

## **Section 7. Limited Immunity.**

Any person or agency who in good faith participates in the making of a report or provides information or evidence in direct accordance with the procedures for resolving complaints under the provisions of this act shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Notwithstanding the foregoing, this immunity shall not apply if an ombudsman communicates any information concerning a complaint to any party not involved in such complaint.

### **Section 8. Repealer.**

All laws and parts of laws in conflict with this Act are, to the extent of such conflict, repealed.

### **Section 9. Severability.**

Should any portion of this Act be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Act, which shall continue effective.

### **Section 10. Effective date.**

This Act shall become effective 180 days after its being signed by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-658

S. 435—Senators Aldridge, Corbett,  
Parsons, Bennett,  
Langford, Bedford,  
Sanders, Ellis, Amari,  
Hilliard, and Drinkard

## **AN ACT**

An act relating to toxic substances; providing legislative intent; providing definitions; providing for liability and responsibility of contractors to employees; providing for the determination of the Alabama Substance List; creating the Toxic Substances Advisory Council; providing for membership, terms and meetings of the council; providing for annual review of the Alabama Substance List; providing notice requirements; providing employee education and training requirements; providing for employee rights; providing for protection of trade secrets; providing for notice to fire departments, emergency medical service providers, and law enforcement agencies; providing record-keeping requirements; providing for annual evaluation reports; providing penalties; prohibiting local standards; providing for review and repeal; providing effective dates; and makes effect of this act conditional upon the providing of funding sufficient to administer the act during fiscal year 1986.

*Be It Enacted by the Legislature of Alabama:*

### **Section 1. Legislative intent.**

It is hereby found and declared that there exists a danger to the health of employees and their families throughout the state because of exposure to toxic substances encountered in the course of employment. Sometimes the tragic results of this exposure may not be realized for years or even for generations. Because of this, it is necessary to require employers to give notice to each employee of the toxic substances involved in his employment which may endanger or cause death to the employee or members of the employee's family. It is further found and declared that employees have an inherent right to know about the toxic substances at their workplace so that they may make more knowledgeable and reasoned decisions with respect to the continued personal costs of their employment and the need for corrective action. It is also found and declared that the workplace often provides an early warning mechanism for the rest of the environment. The Legislature intends, by this act, to ensure that employees must be given information concerning the nature of the toxic substances with which they are working.

**Section 2. Definitions.** As used in this act:

(1) "Alabama Substance List" means the compilation of toxic substances promulgated pursuant to Section 4 of this act.

(2) "Article" means a finished product or manufactured item:

(a) Which is formed to a specific shape or design during manufacture;

(b) Which has end use functions dependent in whole or in part upon its shape or design during end use; and

(c) Which has either no change of chemical composition during end use, or only those changes of composition which have no commercial purpose separate from that of the article.

(3) "Chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(4) "Common name" means any designation or identification such as code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

(5) "Director" means the Director of the Alabama Department of Environmental Management.

(6) "Department" means the Department of Environmental Management.

(7) "Designated representative" means an employee's treating physician, upon written authorization by said employee, and the

employee's collective bargaining agent who is certified or is recognized by the employer of the employee. No other individual or organization shall be eligible to serve as a designated representative.

(8) "Distributor" means an individual or employer, other than the manufacturer or importer, who supplies toxic substances directly to users or to other distributors.

(9) "Employee" means any person employed on or after the effective date of this act who is, has been, or may be exposed under normal operating conditions or foreseeable emergencies to any toxic substance in the employer's workplace.

(10) "Employer" means any person, firm, corporation, partnership, association or other entity engaged in a business or in providing services, including the State of Alabama and any of its political subdivisions, that manufactures, produces, uses, applies, or stores toxic substances. An independent contractor or subcontractor shall be deemed the sole employer of his employees, even when said employees are performing work at the workplace of another employer.

Employer shall not include:

(a) Employers employing two or fewer employees.

(b) Employers of domestic workers in private homes.

(c) Bona fide farmers or an association of farmers employing employees in agricultural labor performed on a farm, or in the on site packing facilities for agricultural products from such farms, who employ 12 or fewer regular employees and who employ 24 or fewer other employees at one time for seasonal or occasional agricultural labor that is completed in less than 30 continuous days, provided that such seasonal or occasional employment does not exceed 60 days in the same calendar year. The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, fish, and truck farms, ranches, nurseries, and orchards. The term "agricultural labor" includes field foremen, timekeepers, checkers, and other farm labor supervisory personnel.

(d) Employers of professional athletes, such as professional boxers and wrestlers and baseball, football, basketball, hockey, polo, tennis, and similar players.

(11) "Expose" or "exposure" means any situation arising from or related to the work operation of an employer where an employee may inhale, absorb through the skin or eyes, accidentally ingest, or otherwise come into contact with a toxic substance.

(12) "Health professional" means a physician, industrial hygienist, toxicologist, or epidemiologist.

(13) "Importer" means the first individual or employer within the Customs Territory of the United States who receives toxic substances produced in other countries for the purpose of supplying them to distributors or users within the United States.

(14) "Impurity" means a toxic substance which is unintentionally present with another substance or mixture.

(15) "List" means the Alabama Substance List promulgated pursuant to Section 4 of this act.

(16) "Manufacturer" means a person who produces, synthesizes, extracts, or otherwise makes toxic substances.

(17) "Material safety data sheet" or "MSDS" means written or printed material concerning a toxic substance which sets forth the following information:

(a) The chemical name and the common name of the toxic substance.

(b) The hazards or other risks in the use of the toxic substance, including:

1. The potential for fire, explosion, corrosivity, and reactivity;

2. The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and

3. The primary routes or entry and symptoms of over exposure.

(c) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.

(d) The emergency procedures for spills, fire, disposal, and first aid.

(e) A description in lay terms of the known specific potential health risks posed by the toxic substance intended to alert any person reading this information.

(f) The year and month, if available, that the information was compiled and the name, address, and emergency telephone number of the manufacturer responsible for preparing the information.

(18) "Medical emergency" means a serious medical condition which poses an imminent threat to a person's health, caused or suspected to have been caused by exposure to a toxic substance, and which requires immediate treatment by a physician.

(19) "Mixture" means any combination of two or more substances, if the combination is not, in whole or in part, the result of a chemical reaction.

(20) "Produce" means to manufacture, process, formulate, or repackage.

(21) "Specific chemical identity" means the chemical name, the Chemical Abstracts Service (CAS) Registry Number, or any other specific information which reveals the precise chemical designation.

(22) "Toxic substance" means any chemical substance or mixture in a gaseous, liquid, or solid state, if such substance or mixture causes a significant risk to safety or health during, or as a proximate result of, any customary or reasonably foreseeable handling or use and which is listed in the Alabama Substance List compiled in accordance with the provisions of Section 4, and which is manufactured, produced, used, applied, or stored in the workplace.

(23) "Trade secret" means any confidential formula, pattern, process, device, information, or compilation of information, including chemical name or other unique chemical identifier, that is used in an employer's business, and that give the employer an opportunity to obtain an advantage over competitors who do not know or use it.

(24) "Work area" means a room or defined space in a workplace where toxic substances are produced, used, or applied and where employees are present in the course of their employment.

(25) "Workplace" means an establishment or business of an employer at one geographic location at which work is performed and which contains one or more work areas. In the case of the state or any of its political subdivisions acting as an employer, the workplace shall be defined as all work areas wholly owned or controlled by the state or said subdivisions. In the case of an independent contractor or subcontractor, the workplace shall be defined as all work areas wholly owned or controlled by said independent contractor or subcontractor.

**Section 3.** Liability and responsibility of independent contractor, general contractor and subcontractor.

(1) For purposes of compliance with this act, an independent contractor or subcontractor shall be responsible for his employees in the workplace of another employer.

(2) In case a general contractor sublets any part or parts of his contract work to a subcontractor or subcontractors, all of the employees of such general contractor and subcontractor or subcontractors engaged on such contract work shall be deemed to be employed in



one and the same business or establishment, and the general contractor shall be responsible for satisfying the provisions of Sections 6, 7, 8, and 10 of this act, except with respect to employees of a subcontractor who has complied with such provisions.

(3) In those instances where the general contractor carried out the provisions of Sections 6, 7, 8, and 10 of this act with respect to the employees of a subcontractor, his liability to such employees shall be limited solely to the provisions of this act and shall in no way absolve the liabilities imposed upon the subcontractor with respect to said employees by any other statute or common law.

#### **Section 4. Determination of substance list.**

(1) For the purposes of this act, the department acting through the environmental management commission, shall promulgate the Alabama Substance List and shall make said list available to manufacturers and employers. Substances on the list may be designated by their chemical name or common name. Only those substances specifically enumerated on the list shall be subject to the provisions of this act. The department shall prepare and acting through the environmental management commission shall amend the list according to the department's established procedures for rule promulgation. A substance shall be placed on the list only after a finding that, according to a preponderance of the evidence, substantial and valid scientific evidence exists that exposure to, or use of, the substance will result in acute or chronic risk to human health or safety. The list shall become official for purposes of Sections 6, 7, 8, and 10 of this act upon adjournment of the 1986 regular session of the Legislature unless the Legislature affirmatively delays implementation of such list prior to adjournment. The department shall, not later than 45 days prior to the convening of the 1987 regular session of the legislature and every regular session thereafter, make recommendations for revision of the list to the Lieutenant Governor and the Speaker of the House of Representatives. Such revised list shall become effective upon promulgation of the revisions through the environmental management commission and adjournment of each regular session of the legislature in the year in which the revision was promulgated unless the legislature affirmatively delays implementation of such list prior to adjournment. If at any time it is found that a substance that is not on the revised list poses a serious threat to human health or safety, the department may promulgate emergency revisions to the list according to the department's established procedures for rule promulgation. The emergency revisions shall become effective upon promulgation and shall remain effective unless the legislature in the next regular or special session repeals them.

(2) The list shall contain only specific chemical substances. Generic substances or categories are to be excluded. The list shall be drawn exclusively from those chemical substances enumerated in the most current edition of the following designated source lists:

(a) International Agency for Research on Cancer (Sublist: "Substances found to have at least sufficient evidence of carcinogenicity in animals").

(b) National Toxicology Program List of chemicals published in the Annual Report on Carcinogens.

(c) Occupational Safety and Health Administration Toxic and Hazardous Substances—29 CFR 1910, Subpart Z.

(d) National Institute for Occupational Safety and Health/Occupational Safety and Health Administration Occupational Health Guidelines for Chemical Hazards.

(e) American Conference of Governmental Industrial Hygienists Threshold Limit Value for Chemical Substances and Physical Agents in the Workplace.

(f) Environmental Protection Agency Carcinogenic Assessment Group's List of Carcinogens.

(g) National Cancer Institute (Substances that meet the National Toxicology Program criteria for significant carcinogenic effect).

(h) National Fire Protection Association Hazardous Chemicals (NFPA 49).

(i) National Fire Protection Association Fire Hazard Properties of Flammable Liquids, Gases, Volatile Solids (NFPA 325M). (All items rated II through IV as health hazards or III through IV as flammability or reactivity hazards.)

(3) The department acting through the environmental management commission shall promulgate and when necessary amend according to the department's established procedures regulations establishing concentrations for toxic substances in mixtures to be subject to the provisions of this act. Such concentration levels shall be consistent with scientific evidence available at the time of promulgation regarding threshold levels and other pertinent toxicity data. The manufacturer of a toxic substance shall notify the department of any valid evidence which indicates either:

(a) The concentration requirement for a toxic substance is higher than what is necessary to protect employees who work with or may be exposed to the substance; or

(b) That the concentration levels should be lowered because there is valid and substantial evidence that the substance is extraordinarily toxic.

(4) The provisions of this act shall not apply to:

(a) Impurities which develop as intermediate materials during chemical processing but are not present in the final mixture and to which employee exposure is unlikely;

(b) Substances which are toxic solely due to chronic ingestion;

(c) Alcoholic beverages as defined in the Code of Alabama (1975);

(d) Articles intended for personal consumption by employees in the workplace;

(e) Articles packaged for distribution to, and used by, the general public;

(f) Articles sold or used in retail food establishments and retail trade establishments;

(g) Substances which are merely being transported through the state as part of a through-shipment in interstate commerce; or

(h) Substances or mixtures which may be toxic but which are labeled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, the Federal Food, Drug and Cosmetic Act, as amended, and the Federal Resource Conservation and Recovery Act.

(5) The department shall review the Alabama Substance List annually. Any revision of the Alabama Substance List shall be made according to the department's established procedures for rule promulgation and upon the department finding that, according to a preponderance of the evidence, substantial and valid scientific evidence exists that any substances added pursuant to this subsection result in an acute or chronic risk to human health or safety.

(6) Substances not present on the Alabama Substance List established pursuant to this section shall not be subject to the provisions of this act.

(7) The department shall be responsible for the dissemination of appropriate information available on the nature and hazards of toxic substances from the Chemical Substance Information network of the Federal Environmental Protection Agency and the Health Hazard Evaluation Program of the National Institute of Occupational Safety and Health (NIOSH). The department shall promptly assist employers, employees, and state personnel with inquiries concerning the toxic nature of such substances.

**Section 5.** Toxic Substances Advisory Council; creation; membership; meetings.

(1) There is hereby created a state Toxic Substances Advisory Council to assist the department in reviewing and preparing the Alabama Substances List.

(a) The council shall consist of nine members selected by the Governor. From a list of twenty names submitted by the Associated Industries of Alabama, the Governor shall select four members. From a list of twenty names submitted by the Alabama Labor Council, the Governor shall select four members. The Governor shall select a chairman of the council from the general population of Alabama to serve for a period of four years. Initially, the Governor shall appoint from the said Associated Industries of Alabama list four members for the following terms: one member for a period of four years; one member for a period of three years; one member for a period of two years; and one member for a period of one year. Initially, the Governor shall appoint from the said Alabama Labor Council list four members for the following terms: one member for a period of four years; one member for a term of three years; one member for a term of two years; and one member for a term of one year. Any vacancies by a member appointed from the said Alabama Labor Council list shall be filled for the remaining names on such list for the remainder of the unexpired term. Any vacancy in the position of chairman shall be filled by the Governor from the general population of Alabama for the remainder of the unexpired term. Thereafter, all members shall be appointed for four-year terms in the same manner as the initial members were appointed.

(b) The Toxic Substances Advisory Council members shall be appointed by the Governor on or before July 1, 1985.

(c) The council shall meet at the call of its chairman, at the request of a majority of its membership, at the request of the director, or at such times as may be prescribed by its rules, but not less than twice a year. The council shall make a report of each meeting, which shall include a record of its discussions and recommendations. The department shall make such reports available to any interested person or group.

(d) Members of the council shall serve without compensation but shall be entitled to receive reimbursement for per diem and traveling expenses.

(2) The initial recommendations of the Toxic Substances Advisory Council shall be made in a report to the director on or before January 1, 1986.

(3) The department shall consider the advice and recommendations of the Toxic Substances Advisory Council in promulgating the Alabama Substances List and its amendments. In compiling the

initial Alabama Substance List, the Toxic Substances Advisory Council shall recommend only substances for which, according to the preponderance of the evidence, substantial and valid scientific evidence exists that such substances result in an acute or chronic risk to human health or safety. If the department rejects the advice and recommendations of the Toxic Substances Advisory Council, the department must provide written reasons for such rejection.

(4) The Toxic Substances Advisory Council shall submit its recommendations to the department for the revision of the Alabama Substance List on or before January 1 of each year.

#### **Section 6. Notice requirements.**

(1) The manufacturer, importer or distributor of any toxic substance shall prepare and provide the direct purchasers of said toxic substances and, upon request, the department, with an MSDS which, to the best of the manufacturer's, importer's or distributor's knowledge, is current, accurate, and complete, based on information then reasonably available to the manufacturer, importer, or distributor.

(2) Any person who produces a mixture may, for the purposes of this section, prepare and use a mixture MSDS, subject to the provisions of subsection 11.

(3) A manufacturer, importer, distributor, or employer may provide the information required by this section on an entire mixture, instead of on each toxic substance in it, when all of the following conditions exist:

(a) Toxicity test information exists on the mixture itself or adequate information exists to form a valid judgment of the toxic properties of the mixture itself and the MSDS indicates that the information presented and the conclusions drawn are from some source other than direct test data on the mixture itself, and that an MSDS on each constituent toxic substance identified on the MSDS is available upon request.

(b) Provision of information on the mixture will be as effective in protecting employee health as information on the ingredients.

(c) The toxic substances in the mixture are identified on the MSDS unless it is either infeasible to describe all the ingredients in the mixture or the identity of the ingredients is itself a valid trade secret; provided, that in either case, the reason why the toxic substances in the mixture are not identified shall be stated on the MSDS.

(d) A single mixture MSDS may be provided for more than one formulation of a product mixture if the information provided does not vary for the formulation.

(4) A manufacturer, importer, or distributor who is responsible for preparing and transmitting an MSDS under the provisions of this section shall revise said MSDS on a timely basis, as appropriate to the importance of any new information which would affect the contents of the existing MSDS, and in any event within 3 months of such information becoming available to the manufacturer, importer, or distributor.

(5) Any person subject to the provisions of this section shall be relieved of the obligation to provide a direct purchaser of a toxic substance with an MSDS:

(a) If he has a record of having provided the direct purchaser with the most recent version of the MSDS;

(b) If the substance is labeled pursuant to:

1. The Federal Insecticide, Fungicide, and Rodenticide Act;
2. The Atomic Energy Act;
3. The Food, Drug and Cosmetics Act;
4. The Resource Conservation Recovery Act; or

(c) If the article is one sold at retail and is incidentally sold to an employer or the employer's employees in the same form, approximate amount, concentration, and manner as it is sold to consumers, and, to the seller's knowledge, employee exposure to the article is not significantly greater than the consumer exposure occurring during the principal consumer use of the article.

(6) If an employer, other than an employer regulated pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, is not supplied with an MSDS by a manufacturer, importer, or distributor for a toxic substance other than a substance or mixture regulated pursuant to the Food, Drug and Cosmetics Act, the Atomic Energy Act, or the Resource Conservation Recovery Act, pursuant to the mandates of this section, said employer shall, within a reasonable amount of time after discovering that an MSDS has not been supplied, use diligent efforts to obtain said MSDS from the manufacturer, importer or distributor. For purposes of this subsection, "diligent efforts" shall mean a prompt inquiry by the employer to the manufacturer, importer, or distributor of the toxic substances; provided, however, that an independent contractor or subcontractor shall be responsible for obtaining the MSDS for his employees in the workplace of another; and, provided further, that for an independent contractor, subcontractor, the state, or any of its political subdivisions acting as an employer, "diligent efforts" shall mean a prompt inquiry to the manufacturer, importer, distributor, or to the owner of a workplace when applicable.

(7) If after having used diligent efforts, an employer still fails to obtain an MSDS, he shall request the department to obtain said MSDS on his behalf.

(8) An employer who has used diligent efforts as defined herein and who has made a documented request to the department pursuant to this section shall not be found in violation of this section with respect to the MSDS which was not supplied by the manufacturer, importer, or distributor as required by this section.

(9) Every employer, except as provided in subsection (10), who manufactures, produces, uses, applies, or stores toxic substances in the workplace shall post a notice as prescribed by rule promulgated by the department in a place where notices are normally posted, informing employees of their rights under this act.

(10) Any employer regulated pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, shall post a notice as prescribed by rules promulgated by the department in a place where notices are normally posted, informing employees of their education and training requirements. Such an employer is exempt from all other provisions of this act.

(11) Every employer who manufactures, produces, uses, applies, or stores toxic substances in the workplace shall maintain an MSDS for each product which is present in said workplace. All MSDS's shall be readily available in the workplace.

(a) An MSDS may be kept in any form, including operations procedures, and may be designed to cover groups of toxic chemicals in a work area where it may be appropriate to address the hazards of a process rather than individual toxic chemicals. However, the employer shall ensure that in all cases the required information is provided for each toxic chemical, and is readily accessible during each workshift to employees when they are in their work area.

(b) Any employee or his designated representative may request in writing and shall have the right to examine and obtain the MSDS's for the toxic substances to which he is, has been, or may be exposed. The employer shall provide any MSDS within its possession within 5 of the requesting employee's working days, subject to the provisions of subsection (7). The employer may adopt reasonable procedures for acting upon such requests to avoid interruption of normal work operations.

(c) An independent contractor or subcontractor working in the workplace of another employer may request in writing and shall have the right to examine the MSDS's for the toxic substances to which he or his employees, are, have been, or may be exposed. The employer

shall provide any MSDS within its possession within 5 of the requesting independent contractor's or subcontractor's working days, subject to the provisions of subsection (7). The employer may adopt reasonable procedures for acting upon such requests to avoid interruption of normal work operations.

(d) If an employee who has requested an MSDS pursuant to this act has not received said MSDS within 5 of the requesting employee's working days, subject to the provisions of subsections (7), that employee may refuse to work with the substance for which he has requested the MSDS until said MSDS is provided, however, that nothing contained herein shall be construed to permit any employee of the state or any of its political subdivisions to refuse to perform essential services; and provided, further, that nothing shall be construed to interfere with the right of the employer to transfer an employee who so refuses to work to other duties until said MSDS is provided, such a transfer not to be considered as a discriminatory act under Section 8 of this act. No pay, position, seniority, or other benefits shall be lost for exercise of any right provided by this act as a result of such a transfer.

(12) For the purposes of this section, an independent contractor, subcontractor, the state, or any of its political subdivisions shall maintain MSDS's for their own workplaces only; provided, however, that employees of such independent contractor or subcontractor, insofar as they are exposed in the course of their employment to toxic substances in other workplaces, shall have the right to examine MSDS's for those substances to which they are exposed from the workplace employer through a written request to their own employer as provided in paragraph (b) of subsection (11).

(13) Employers must advise employees that they can obtain further information from the department.

(14) Nothing contained in this act shall be construed to require an employer to conduct studies to develop new information.

### **Section 7. Employee education and training.**

(1) Employers shall furnish employees with instruction on the nature and effects of those toxic substances present in the workplace either in written form or in training programs as may be appropriate. Such instruction shall be in nontechnical language, but may be generic to the extent appropriate and related to the job. Such instruction shall include:

(a) The chemical name and any common names, unless withheld from an MSDS as a trade secret, of the toxic substance to which an employee may be exposed under normal operating conditions;

(b) The location of the substance in the workplace;



(c) Appropriate first aid treatment and antidotes in the event of improper exposure or overexposure;

(d) The proper and safe handling of said substance;

(e) The health effects of said substance as described in the relevant MSDS;

(f) Appropriate emergency treatment;

(g) The procedures for clean-up of leaks and spills of such substances;

(h) The potential for flammability, explosion, and reactivity of such substances; and

(i) The rights and duties of employees as set forth in this act.

(2) Employers shall provide their current employees with instruction as described herein within 9 months of the effective date of the list promulgated pursuant to this act and at least annually thereafter, and, for employees hired thereafter, within the first 30 days of employment and at least annually thereafter.

#### **Section 8. Employee rights.**

(1) No person shall discharge or cause to be discharged, or otherwise discipline, or in any manner discriminate against, any employee for any of the following reasons:

(a) The employee has requested information regarding toxic substances, filed any complaint or suit, or has instituted, or caused to be instituted, any proceeding under this act;

(b) The employee has testified or is about to testify in any proceeding in his own behalf or on behalf of others; or

(c) The employee has exercised any other right afforded pursuant to the provisions of this act.

(2) No pay, position, seniority, or other benefits shall be lost for exercise of any right provided by this act.

(3) A violation of this section by the employer shall create in the employee a private cause of action cognizable in the circuit court. An employee who believes that he has been discharged, disciplined, or in any manner discriminated against by this employer for reasons of exercising rights under this act may, within 120 days of such violation or within 120 days after obtaining knowledge that a violation did occur, file a cause of action. The court shall award a reasonable attorney's fee and costs to the prevailing party arising from a suit filed pursuant to this section.

#### **Section 9. Trade secrets.**

(1) A trade secret claim may be made by a chemical manufacturer or employer by withholding the specific chemical identity from the MSDS, provided that:

(a) The claim that the information withheld is a trade secret can be supported;

(b) Information contained in the MSDS concerning the properties and effects of the toxic substance is disclosed;

(c) The MSDS indicates that the specific chemical identity is being withheld as a trade secret; and

(d) The specific chemical identity is made available to health professionals, in accordance with the applicable provisions of this section.

(2) Where a treating physician or nurse determines that a medical emergency exists and the specific chemical identity of a toxic chemical is necessary for emergency or first-aid treatment, the chemical manufacturer or employer shall immediately disclose the specific chemical identity of a trade secret chemical to that treating physician or nurse, regardless of the existence of a written statement of need or a confidentiality agreement. The chemical manufacturer or employer may require a written statement of need and confidentiality agreement, in accordance with the provisions of subsections (3) and (4), as soon as circumstances permit.

(3) In nonemergency situations, a chemical manufacturer or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under subsection (1), to a health professional if:

(a) The request is in writing;

(b) The request describes with reasonable detail one or more of the following occupational health needs for the information:

1. To assess the toxicity of the chemicals to which employees will be exposed;

2. To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

3. To conduct pre-assignment or periodic medical surveillance of exposed employees;

4. To provide medical treatment to exposed employees;

5. To select or assess appropriate personal protective equipment for exposed employees;

6. To design or assess engineering controls or other protective measures for exposed employees; and

7. To conduct studies to determine the health effects of exposure.

(c) The request explains in detail why the disclosure of the specific chemical identity is essential and that, in lieu thereof, the disclosure of the following information would not enable the health professional to provide the occupational health services described in this subsection:

1. The properties and effect of the chemical;
2. Measures for controlling workers' exposure to the chemical;
3. Methods of monitoring and analyzing worker exposure to the chemicals; and
4. Methods of diagnosing and treating harmful exposures to the chemical.

(d) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and

(e) The health professional and the employer or contractor of the health professional's services (i.e. downstream employer, labor organization, or individual employer) agree in a written confidentiality agreement that the health professional will not use the trade secret information for any purpose other than the health needs asserted and agree not to release the information under any circumstances other than to the department, as provided in subsection (6) of this section, except as authorized by the terms of the agreement or by the chemical manufacturer or employer.

(4) The confidentiality agreement authorized by paragraph (d) of subsection (3);

(a) May restrict the use of the information to the health purposes indicated in the written statement of need;

(b) May provide for appropriate legal remedies in the event of a breach of the agreement, including stipulation of a reasonable preestimate of likely damages; and

(c) May not include requirements for posting of a penalty bond.

(5) Nothing in this act is meant to preclude the parties from pursuing noncontractual remedies to the extent permitted by law.

(6) If the health professional receiving the trade secret information decides that there is a need to disclose it to the department, the chemical manufacturer or employer who provided the information shall be informed by the health professional prior to, or at the same time as, such disclosure.

(7) If the chemical manufacturer or employer denies a written request for disclosure of a specific chemical identity, the denial must:

(a) Be provided to the health professional within 30 days of the request;

(b) Be in writing;

(c) Include evidence to support the claim that the specific chemical identity is a trade secret;

(d) State the specific reasons why the request is being denied; and

(e) Explain in detail how alternative information may satisfy the specific medical or occupational health need without revealing the specific chemical identity.

(8) The health professional whose request for information is denied under subsection (3) may refer the request and the written denial of the request to the director for consideration.

(9) When a health professional or employee refers the denial to the director under subsection (8), the director shall consider the evidence to determine if:

(a) The chemical manufacturer or employer has supported the claim that the specific chemical identity is a trade secret;

(b) If the request is made by a health professional, that the health professional has supported the claim that there is a medical or occupational health need for the information; and

(c) If the request is made by a health professional, that the health professional has demonstrated adequate means to protect the confidentiality.

(10)(a) If the director determines that the specific chemical identity requested under subsection (3) is not a bona fide trade secret, or that it is a trade secret but a requesting health professional has a legitimate medical or occupational health need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the chemical manufacturer or employer will be subject to an order by the director to disclose the specific chemical identity to the health professional, or disclose the specific chemical identity to the employee if it is not a bona fide trade secret.

(b) If a chemical manufacturer or employer demonstrates to the director that the execution of a confidentiality agreement would not provide sufficient protection against the potential harm from the unauthorized disclosure of a trade secret's specific chemical identity,

the director may issue such orders or impose such additional limitations or conditions upon the disclosure of the requested chemical information as may be appropriated to assure that the occupational health services are provided without an undue risk of harm to the chemical manufacturer or employer.

(11) Notwithstanding the existence of a trade secret claim, a chemical manufacturer or employer shall, upon request, disclose to the department any information which this section requires the chemical manufacturer or employer to make available.

(12) Nothing in this section shall be construed as requiring the disclosure, under any circumstances, of process or percentage-of-mixture information which is a trade secret.

**Section 10.** Notice to fire departments, emergency medical service providers, and law enforcement agencies required.

(1) An employer, unless specifically exempted pursuant to subsection (4), shall provide within 9 months after the effective date of this act to the person responsible for the administration and direction of a fire department in a county, municipality, or political subdivision, including a fire chief or fire administrator or that person's designee:

(a) A list of work areas, sufficiently identified by name and location, where toxic substances are present, containing the chemical and common name of each substance regularly present unless such information is protected pursuant to the trade secret provisions of this act; and

(b) Upon request, any MSDS for each toxic substance regularly present.

(2) Whenever circumstances regarding the name and location of the substance change sufficiently to warrant an updated report, the employer shall update the information provided pursuant to subsection (1).

(3) Employers who become covered under this act after October 1, 1987, shall provide the information required by subsection (1) within 60 days after becoming covered.

(4) An employer operating a plant or facility which continues in operation, including maintenance periods, 24 hours a day, 7 days a week, 365 days a year, shall not be required to provide the information specified in subsection (1) with respect to any such plant or facility, provided that such plant or facility is manned at all times by personnel qualified to provide such information.

(5) The person responsible for the administration and direction of a fire department in a county, municipality, or political subdivision,

including a fire chief or fire administrator or that person's designee, shall maintain for at least 4 years the information provided by the employer as required in subsection (1) and shall provide copies of such information only to the following agencies located within the geographic jurisdiction of such fire department:

- (a) Fire suppression and fire inspection divisions;
- (b) Emergency medical service providers; and
- (c) Upon request, law enforcement agencies.

**Section 11. Record-keeping.** An employer subject to the provisions of this act shall be required to maintain as records for a period of 30 years only the MSDS's required by section 6.

**Section 12. Reports.** The director shall submit an annual evaluation report on the program outlined in this act to the Governor and to the members of the Legislature. The report shall include a statement of the scope, status, and quality of the program, and the costs associated with the program.

**Section 13. Penalties.**

(1) Any employer who fails to comply with the provisions of this act shall be liable for a civil penalty not to exceed \$1,000 per violation in addition to any other damages for which an employer may be liable pursuant to any other provision of law. This civil penalty shall be assessed by the director. The department may bring an action in the circuit court in the county where the employer's workplace is situated against any person or persons alleged to have violated the provisions of this act to collect a penalty assessed by the director under this act or to obtain injunctive relief to restrain violations of this act. In any such action, the circuit court shall have the jurisdiction to grant such relief. An employer shall not be considered to be in violation of this act in instances where injury or death occurs as the result of contact with or exposure to a substance which a reasonably prudent adult would or should recognize to be hazardous as a matter of common knowledge.

**Section 14. Local standards prohibited.** Units of local government, are strictly prohibited from enacting or promulgating any rules, standards, or ordinances relating to toxic substances in the workplace.

**Section 15.** Any federal statute, or rule or regulation adopted pursuant to such statute, which statute, rule, or regulation is equal or more stringent than the comparable provisions of this act shall prevail over the less stringent provisions of this act.

**Section 16.** This act shall become effective immediately upon:

- (1) Its passage and approval by the Governor, or upon its otherwise becoming a law; and

(2) The department being provided with funding sufficient to administer the act during fiscal year 1986.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-659

S. 555—Senator Goodwin

### AN ACT

To make supplemental appropriations from the Public Road and Bridge Fund to the State Highway Department for the fiscal year ending September 30, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated from the Public Road and Bridge Fund for the fiscal year ending September 30, 1985, the following:

- |                        |             |
|------------------------|-------------|
| (a) State Maintenance  | \$8,000,000 |
| (b) State Construction | 4,000,000   |

**Section 2.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby specifically repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-660

S. 641—Senators Dixon and Langford

### AN ACT

To fix the supplemental salaries of the circuit judges of the 15th Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each circuit judge in the 15th Judicial Circuit shall, in addition to the salary paid by the State, receive a supplemental

salary from the general fund of the county composing said judicial circuit. Such supplemental salary shall at all times equal 40% of the salary paid each said judge by the State of Alabama and shall be paid in equal installments at the same times and in the same manner that the salaries of the county employees are paid. The governing body of said county is hereby authorized, empowered and directed to pay the supplemental salary provided herein to each such circuit judge out of the funds of the county or any other funds as may be available for such purpose. The salary provided herein is in lieu of any other supplemental salary paid by the county and represents the total supplemental salary to be provided by the county for such judges.

**Section 2.** The provisions of this Act shall take effect on January 1, 1987.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-661

S. 411—Senator Aldridge

### AN ACT

Relating to Morgan County; further amending Section 2 of Act No. 80-167, S. 299, Regular Session 1980 (Acts 1980, p. 245), as amended, relating to the distribution of payments by Tennessee Valley Authority in lieu of ad valorem taxes, so as to extend the period for the present distribution formula.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 80-167, S. 299, Regular Session 1980 (Acts 1980, p. 245), as amended, is hereby amended to read as follows:

“Section 2. Notwithstanding any law to the contrary, the provisions of this act shall remain in effect until October 1, 1987. If on that date, the legislature has not acted to renew this act, the distribution of revenue authorized by Section 40-28-3, Code of Alabama 1975, shall be controlling.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.



Act No. 85-662

S. 305—Senator Parsons

## AN ACT

To provide for the reopening of the Employees' Retirement System of Alabama to those municipal officers and employees who are members of the Employees' Retirement System of Alabama on June 1, 1984, and who have prior employment with other municipalities for which they are ineligible to gain credit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any person who, as of June 1, 1984, is an officer or a regular employee of a municipality of the State of Alabama and is covered or eligible to be covered under the State Employees' Retirement System and who has previously been employed by another municipality within the State of Alabama shall have credited to him one year of creditable service for each year previously employed by another municipality of the State of Alabama not to exceed five (5) years, provided, that such person shall pay into the retirement system the employee's part of the cost of contribution based on the salary and expenses paid to such person during the time of his previous employment, with such cost or contribution to be calculated at the percent or rate in effect on June 1, 1984.

**Section 2.** This act shall apply only to those persons, who at the time of their retirement, have ten (10) or more creditable years of service under the State Retirement System which ten years shall be exclusive of the years employed by the prior municipality.

**Section 3.** This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-663

S. 386—Senator Langford

## AN ACT

Relating to Montgomery County; providing further for the compensation of the tax assessor and tax collector.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Montgomery County, beginning with the next term of office, the tax assessor and tax collector are each hereby

entitled to receive additional salaries in the amounts of \$7,500.00 per annum to be paid in equal monthly installments out of the county general fund.

The salaries provided for in this act shall be in addition to any and all other salary, compensation and expense allowances provided for by general or local law.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-664

S. 649—Senator deGraffenried

### AN ACT

Relating to the Sixth Judicial Circuit; to provide for increases in the county supplements of circuit judges of the Sixth Judicial Circuit; to provide for additional expense allowances for the circuit clerk of such judicial circuit; and to provide for certain additional expense allowances and salary increases for the probate judge and certain other officials of the Sixth Judicial Circuit and certain other county officials.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** All circuit judges of the Sixth Judicial Circuit shall receive a county supplement in an amount equal to 35% of the compensation paid said circuit judges by the state. Said supplement shall be in lieu of all previous county supplements. Said supplement shall be paid in the same manner as other county supplements are paid. The probate judge of the county comprising the Sixth Judicial Circuit shall be compensated in accordance with the provisions of Act No. 85-106, H. 1 of the 1985 First Special Session of the Alabama Legislature.

**Section 2.** The circuit clerk of the Sixth Judicial Circuit shall receive an additional expense allowance in the amount of \$2,500.00 per annum in addition to other expense allowances heretofore provided by law. Said additional supplement shall be paid in the same manner as other county allowances are paid.

**Section 3.** The other officials of the Sixth Judicial Circuit and the other county officials which are set out in Act No. 77-323, H. 645, Regular Session 1977 (Acts 1977, p. 423), shall hereafter receive in addition to their present salary and expense allowances the additional expense allowance provided for the circuit clerk in Section

2 of this act and any other expense allowances or salary increases which the said circuit clerk shall hereafter receive.

**Section 4.** The provisions of this act shall not become effective unless all of the increases in compensation provided herein shall have been approved by the county governing body of the county comprising the Sixth Judicial Circuit within 60 days of the passage and upon the approval of this act by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-665

S. 511—Senator Denton

### AN ACT

To amend Section 36-16-8(3) of the Code of Alabama 1975, relating to the disposition, transfer, assignment or entrustment of nonconsumable personal property to require the written permission of the Alabama Department of Economic and Community Affairs or his designee.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-16-8(3) of the Code of Alabama 1975 is amended to read as follows:

“§36-16-7.

“The property inventory control division shall establish a control in the following manner of all nonconsumable state personal property not hereinafter exempt under section 36-16-11.

(1) The head of each department or agency of the state shall designate one of its employees as property manager for such department or agency, whose duty shall be to make a full and complete inventory of all nonconsumable personal property, except books, of the value of \$100.00 or more owned by the state and used by said department or agency, and all such property hereafter acquired, which inventory shall show the complete description, manufacturer's serial number, cost price, date of purchase, location and custodial agency, responsible officer or employee and the state property control marking. A copy of such inventory shall be submitted to the property inventory control division on October 1 and April 1 of each year. Each inventory shall show all such property acquired since the date of the last inventory. When any inventory fails to show any such property shown on the previous inventory, then a complete explanation accounting for said property or the disposition thereof must be attached to and

submitted to the property inventory control division with the inventory. All such property managers shall keep at all times in their files a copy of all inventories submitted to the property inventory control division, and said copies shall be subject to examination by any and all state auditors or employees of the department of examiners of public accounts.

(2) Each such property manager shall be the custodian of and responsible for, all property in his department or agency, and when any such property is entrusted to other employees or officers of such department or agency, then the property manager shall require a written receipt of such property so entrusted, which receipt shall be executed by the person receiving the said property; and, in that event, such property manager shall be relieved of responsibility of said property, and the employee or officer of said department or agency shall then become responsible for said property.

(3) No such property shall be disposed of, transferred, assigned or entrusted to any other department, agency or employee thereof without the written permission of the Director of the Alabama Department of Economic and Community Affairs or the Governor of the State of Alabama or the designee of either of them.

(4) The property inventory control division shall conduct annually an inventory of all such state personal property, holding every officer or employee strictly accountable for all personal property assigned to his custody.

(5) Whenever any such property manager ceases for any reason to be the property manager of his department or agency, the director of said department or agency shall immediately notify in writing the property inventory control division, and the division shall immediately check the inventories of all such property in said department or agency, and the successor to such property manager shall execute a written receipt for all such property received by him or coming into his custody or control. The last payment of salary due such property manager shall be withheld until such complete check of the inventory of such property has been made and approved, and in event of any shortages, such property manager shall not be held accountable for such property which he has entrusted to any other employee or officer of said department or agency and for which he holds the written receipt of such employee or officer. (Acts 1949, No. 627, p. 967, §1.)

**Section 2.** Effective Date of Act. This Act shall become effective immediately upon its passage and approval by the Governor, or upon otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-666

S. 218—Senators Bedford, Foshee,  
Langford, Smith (J),  
Drinkard, Bedsole,  
Cooley, Figures, Barron,  
and Hilliard

## AN ACT

To amend Section 12-13-20, Code of Alabama, 1975, as amended, which relates to salaried probate judges' minimum compensation so as to further provide for such compensation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 12-13-20, Code of Alabama, 1975, as amended, is hereby amended to read as follows:

"Section 12-13-20. (a) No probate judge who is on a salary and who serves as chairman of the county commission shall receive total compensation less than \$35,000.00 per year beginning on October 1, 1985 and less than \$40,000.00 per year beginning on October 1, 1986, for serving as chairman and probate judge. This section in no way affects probate judges earning more than \$35,000.00 per year on October 1, 1985 and more than \$40,000.00 per year on October 1, 1986.

(b) No probate judge who is on salary and who does not serve as chairman of the county commission shall receive total compensation less than \$32,500.00 per year beginning on October 1, 1985 and less than \$37,500.00 per year on October 1, 1986.

(c) Any necessary funds needed to ensure a probate judge shall receive a total compensation of \$35,000.00 or \$40,000.00 per year or \$32,500.00 or \$37,500.00 per year as the case may be, shall be paid out of the respective county's general fund.

(d) The provisions of this section shall not affect the compensation of probate judges of counties where said judges are compensated on the basis of the fee system.

**Section 2.** This bill shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-667

S.J.R. 114—Senator Corbett

## SENATE JOINT RESOLUTION

MOURNING THE UNTIMELY DEATH OF RONNIE JOE PIERCE OF UNION SPRINGS, ALABAMA.

WHEREAS, the Legislature of Alabama was saddened to learn of the death of Ronnie Joe Pierce of Union Springs, Alabama, on March 9, 1984, at the age of 26; and

WHEREAS, Mr. Pierce was a valuable employee of the State of Alabama in the Service Division of the Finance Department, and assigned to the Archives and History Building; and

WHEREAS, Mr. Pierce had overcome meningitis at the age of 12 to become a useful and productive citizen of our State; and

WHEREAS, Mr. Pierce will long be remembered and deeply missed by those who were privileged to know him; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do deeply regret and grievously mourn the death of Ronnie Joe Pierce and extend our sincere sympathy to his mother and family.

BE IT FURTHER RESOLVED, That copies of this resolution be presented to his mother, Mrs. Maxine B. Pierce, and his grandparents, Mr. and Mrs. Mack D. Bazzell, that they may know of our shared sorrow in their great loss.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-668

S.J.R. 50—Senator Dial

## SENATE JOINT RESOLUTION

COMMENDING DOCTOR GEORGE C. SMITH OF LINEVILLE, ALABAMA, PRESIDENT OF THE ALABAMA CATTLEMEN'S ASSOCIATION.

WHEREAS, the Alabama Legislature in consensus of highest commendation, notes the election of Dr. George C. Smith of Lineville, Alabama, as the 40th president of the Alabama Cattlemen's Association; and

WHEREAS, Dr. Smith, a prominent Clay County physician and cattleman, has been active in Association affairs for a number of years and has previously served as the 16,700-member organization's first, second and third vice president, and as president of the Clay County Cattlemen's Association; and

WHEREAS, a lifelong resident of Clay County, Dr. Smith is a graduate of Samford University with a degree in pharmacy and the M.D. degree from the University of Alabama Medical School; he has been engaged in the practice of family medicine in Lineville since 1966 and is a senior partner in Clay County Medical Clinics in Lineville and Ashland, Alabama; and

WHEREAS, Dr. Smith, in addition to his professional pursuits, also operates Crooked Creek Farm in Lineville, producing purebred Charolais and Simmental cattle, and is a partner in Clay Feedlot, a 600 capacity automated feedlot; he is past president of the Alabama Charolais Association and a member of the American International Charolais Association; and

WHEREAS, he further has long been active in civic and community affairs, serving several years as chairman of the Administrative Board of the Lineville United Methodist Church; he also is a trustee of Lineville High School, Mayor Pro-Tem of the City of Lineville and is serving his third term on the Lineville City Council; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Doctor George C. Smith of Lineville, Alabama, for outstanding professional achievement and community involvement; we further congratulate Dr. Smith on his election as president of the Alabama Cattlemen's Association and direct that he receive a copy of this resolution, tendered in sincere praise and warmest, personal regard.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-669

S.J.R. 123—Senator Barron

#### SENATE JOINT RESOLUTION

DESIGNATING, IN COMMENDATION, THAT PORTION OF HIGHWAY 35 WITHIN THE CITY LIMITS OF SECTION, ALABAMA, AS THE "TAMMY LITTLE DRIVE."

WHEREAS, Tammy Little, our 1984 Miss Alabama and a resident of Section, Alabama, is the daughter of Mr. and Mrs. Wayne Little and is a junior at Jacksonville State University, majoring in early childhood education; and

WHEREAS, as a high school student, Miss Little accrued numerous accolades and academic distinctions including varsity cheerleader captain, International Cheerleader Foundation Award of Excellence, Society of Distinguished High School Students, National Beta Club and Honor Society, yearbook editor and Who's Who Among American High School Students; and

WHEREAS, Miss Little, at Jacksonville State University, has further expanded her impressive achievements as a Marching Bal-lerina, Homecoming finalist, and winner of the JSU first Annual Talent Show; and

WHEREAS, she also is a member and officer of Alpha Xi Delta Social Sorority; Kappa Alpha Fraternity Southern Belle vice-president, Rose Court; a member of Epsilon Educational Fraternity; and has traveled the state with the Miss Alabama Revue and was a participant in the Six Flags Over Georgia Musical Production and the replacement group for Opryland USA; and

WHEREAS, in culmination of extraordinary accomplishment, the lovely and talented Miss Little was crowned Miss Alabama-1984 and her reign indeed brings great honor to her school, hometown and all Alabama; and

WHEREAS, in recognition of Miss Little's singular achievement, it is entirely fitting and proper that her name be perpetuated in appropriate fashion; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we hereby name and designate that portion of Highway 35, within the City limits of Section, Alabama, as the "Tammy Little Drive."

**BE IT FURTHER RESOLVED,** That the proper officials are authorized to erect and maintain appropriate signs and markers so designating said portion of Highway 35.

**RESOLVED FURTHER,** That Miss Little receive a copy of this resolution as a memento of this honorary designation of the Legislature.

Approved May 29, 1985

Time: 8:00 P.M.



Act No. 85-670

S.J.R. 227—Senator Dixon

## SENATE JOINT RESOLUTION

COMMENDING MARGARET A. CARPENTER, ALABAMA'S SMALL BUSINESS PERSON OF THE YEAR.

WHEREAS, the Legislature of Alabama notes with highest commendation the selection of Margaret A. Carpenter of Montgomery as Alabama's Small Business Person of the Year, a prestigious annual award of the Small Business Administrative in recognition of outstanding contributions to the business community; and

WHEREAS, Mrs. Carpenter is president of COMPOS-IT, Inc., a 22-year Montgomery-based firm, with offices also in Birmingham, which has become, in just 22 years, the largest type-setting firm in Alabama, doing business statewide and in adjoining states as well; and

WHEREAS, COMPOS-IT further has received national recognition for support of the Arts and has been recognized locally on several occasions for its outstanding support and promotion of numerous community and civic affairs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Margaret A. Carpenter of Montgomery, Alabama, for outstanding achievement as president of COMPOS-IT, Inc., and as Alabama's Small Business Person of the Year.

BE IT FURTHER RESOLVED, That in expression of our sincere praise and regard of her many accomplishments, a copy of this commendatory resolution shall be forwarded to Mrs. Carpenter.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-671

S.J.R. 233—Senators Cooley, Smith (B)  
Barron, and Smith

## SENATE JOINT RESOLUTION

MADISON COUNTY COMMISSION MEMBERS URGED TO HOLD EVENING MEETINGS FOR WORKERS.

WHEREAS, many people in Madison County are employed during the hours that the county commission holds its meetings and cannot attend; and

WHEREAS, many of the constituents in Madison County wish to exercise their inherent freedoms to be heard on the important issues which affect them and the community and communicate with their elected officials; and

WHEREAS, numerous citizens have contacted the Madison County legislature delegation, and particularly citizens in the working public and in volunteer fire department associations who want to communicate their desires and expertise relative to zoning laws, fire and building codes, school funding and the fire marshal's office; and

WHEREAS, the Madison County Legislative Delegation and the Huntsville City Commission hold meetings for the public, from time to time, at night, so that their constituents may have a voice in their government about issues important to them; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do strongly urge the Madison County Commission to give their constituents a voice in their county government and to schedule some of its meetings at an hour in the evening, from time to time, where the working public may attend to express their opinions.

RESOLVED FURTHER, That a copy of this resolution be sent to the members of the Madison County Commission.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-672     S.J.R. 231—Senators Mitchem, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Horn, Langford, Little, Menton, Parsons, Sanders, Smith (B), Smith (J), Strong, and Teague

#### SENATE JOINT RESOLUTION

COMMENDING UNITED STATES CONGRESSMAN TOM BEVILL, A DISTINGUISHED PUBLIC SERVANT.

WHEREAS, Tom Fike Donald Beville, a native of Jasper, Alabama, and educated in the public schools of Walker County, holds

the B.S. degree from the University of Alabama and is a 1948 graduate of the university's School of Law; he is a United States Army Veteran of World War II, serving from 1943-1946 at which time he was discharged with the rank of captain; and

WHEREAS, he was engaged in the general practice of law in Jasper during the years 1949 to 1967, and served in the Alabama State Legislature from 1958 to 1966; and

WHEREAS, Tom Bevill, who was elected to the United States House of Representatives in 1966 for the 1967-68 term, and subsequently re-elected to nine consecutive terms, is now serving in his 19th year in the Congress; and

WHEREAS, thus, for more than a quarter of a century, Tom Bevill has distinguished himself as an exemplary public servant whose labors and life's work have been greatly to the good of the citizens of Alabama and the nation; his contributions in all areas have been notable, but he has been most particularly beneficial to his beloved home state, and the citizens thereof, as the principal proponent in Congress of the Tennessee-Tombigbee Waterway; and

WHEREAS, Tom Bevill began working toward the Tenn-Tom construction even as a member of the State Legislature by supporting legislation which appropriated \$25,000 annually for the State's share of operating funds for the Tennessee-Tombigbee Waterway Development Authority, and he was instrumental also in securing funds for Alabama's responsibilities in the early stages of the waterway's development; and

WHEREAS, in Washington, Congressman Bevill has worked tirelessly and unceasingly for the continued construction of the Tenn-Tom project and it was primarily through his leadership and steadfast support that the Tennessee-Tombigbee Waterway was ultimately completed, opening in January 1985; and

WHEREAS, Tom Bevill, in fulfilling this major commitment and goal, has indeed kept faith with the people of Alabama and he continues to promote the Tenn-Tom Waterway and the economic and industrial development it is bringing to areas adjacent to its corridor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Congressman Tom Bevill of Jasper, Alabama, for outstanding service to Alabama and the nation and, in principal gratitude and recognition for his instrumentality in the completion of the Tennessee-Tombigbee Waterway, direct that he receive a copy of this resolution of praise on behalf of all citizens of our State.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-673      S.J.R. 239—Senators Dixon, Langford, Foshee,  
Covington, Teague, and Holmes

### SENATE JOINT RESOLUTION

CONGRATULATING WLWI-RADIO, MONTGOMERY, ALABAMA, NATIONAL COUNTRY MUSIC RADIO STATION OF THE YEAR.

WHEREAS, the Alabama Legislature, in consensus of commendation and great personal pride, notes the selection of WLWI-Radio in Montgomery, Alabama, as Country Music Radio Station of the Year, a prestigious award bestowed annually by the Academy of Country Music; and

WHEREAS, this significant recognition of excellence is by vote of recording artists, song writers and other industry associates who are members of the Academy, and their professional assessment of WLWI as number one was made from a field of more than 5,000 country music stations throughout America; and

WHEREAS, WLWI's award was announced on May 6, 1985, during the nationally telecast Academy of Country Music Awards program, and it was a moment of great pride and joy for the citizens of Montgomery and the entire State of Alabama; and

WHEREAS, it further is significant to note that WLWI first began broadcasting on January 16, 1979, and, in just six short years, has reached the national pinnacle of success; and

WHEREAS, the executives and staff of WLWI Radio are indeed to be praised for outstanding achievement and for the fame and honor they have brought to their community and the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate WLWI in Montgomery, Alabama, and direct that copies of this resolution be forwarded to America's Country Music Radio Station of the Year for appropriate presentation and display.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-674

S.J.R. 238—Senators Amari, Bennett, Horn,  
Cabaniss, Hilliard, and Parsons

## SENATE JOINT RESOLUTION

DESIGNATING GOODLOE RUTLAND "CHAIRMAN EMERITUS", BOARD OF DIRECTORS, BIRMINGHAM-JEFFERSON CIVIC CENTER AUTHORITY.

WHEREAS, in 1972, the Jefferson County Legislative Delegation elected Goodloe Rutland a Director of the Birmingham-Jefferson Civic Center Authority Board of Directors, and in recognition of his outstanding service re-elected him to a second four-year term in 1976, and he served continuously as a Board member and only Chairman of the Board from December, 1972, to October, 1984, conducting over 200 consecutive official meetings of the Board and scores of other meetings with architects, contractors, staff members and others; and

WHEREAS, under his leadership, the Concert Hall and Theatre, which were incomplete when he was first elected to the Board, were successfully completed and officially opened in October, 1974, and the coliseum was re-designed, financed and constructed to serve as exemplary multi-purpose facility catering to large audiences, opening in September, 1976, and other major improvements were completed including a 60,000 square foot addition to the existing Exhibition Hall; and

WHEREAS, the Civic Center is a tremendous success, being recognized as one of the great assets of Birmingham, Jefferson County, and the entire State of Alabama; and

WHEREAS, in recognition and appreciation of his outstanding service, it is the desire of the Alabama Legislature to honor Mr. Rutland in an appropriate and grateful manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby designate Goodloe Rutland with the honorary title of "Chairman Emeritus" of the Board of Directors of the Birmingham-Jefferson Civic Center Authority, as an expression of our deep appreciation for his service.

BE IT FURTHER RESOLVED, That a copy of this Resolution be forwarded to Mr. Rutland.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-675

S.J.R. 240—Senator Teague

## SENATE JOINT RESOLUTION

## COMMENDING ZORA ELLIS OF TALLADEGA, ALABAMA.

WHEREAS, Zora Ellis, a native of Jasper, Alabama, in the year 1901, has for a major portion of her life been involved in improving the lives of thousands of Talladega and Alabama residents through her outstanding classroom teaching in the public schools; and

WHEREAS, this gracious Southern lady has been instrumental in her unmatched manner of stimulating youth to want to learn, beginning with a year of teaching at Empire, followed by three years at Winfield, and finally a span of 42 years at Talladega High School; and

WHEREAS, during this time she has not only excelled in teaching, but has been an active part of the Talladega community, serving her church, Trinity United Methodist Church, as organist for almost 55 years; working diligently for her alma mater, Huntingdon College, where she served as President of the Alumni Association, was recognized as the award winner in 1951 for Alumni Work and in 1981 received the Loyalty Award; active in Delta Kappa Gamma Society, serving as International President of the organization in 1960-62; received the Talladega Chamber of Commerce Notable Service Award in 1952; and was recognized by the Pilot Club of Talladega as the Teacher of the Year in 1967; and

WHEREAS, she received the Talladega Civitan Club Citizenship Citation in 1967; was honored by a Zora Ellis Night at a Talladega High School football game in 1968; honored by her church when a Sunday School class was named the Zora Ellis Class; was named President of the Talladega City Teacher Association, being the first classroom teacher to be so honored; elected as President of the Alabama Education Association in 1950-51; received the Service Award by Talladega High School during Alumni Week in 1981; and was honored by the dedication of the school yearbook, "Tallala," two times, in 1947 and 1968; and

WHEREAS, she is listed in Who's Who in American Education, Who's Who in Alabama, Personalities of the South, and Who's Who in American Women (First Edition) and has garnered numerous other awards and honors too lengthy to mention; and

WHEREAS, this person is beloved by all who have known her and thousands who have learned of her through stories passed along to their children and grandchildren and who equally love and respect her for her impact upon their lives; and

WHEREAS, the Mayor of Talladega, Larry Barton, has proclaimed May 25, 1985, to be "Zora Ellis Day" in the City of Talladega and, at a dinner on that date, a school building will be named the Zora Ellis Middle School; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with the citizens of Talladega and of all Alabama in recognition of Zora Ellis for outstanding professional and community service.

BE IT FURTHER RESOLVED, That a copy of this resolution shall be presented to Zora Ellis, a prominent educator and an exemplary citizen whom we hold in highest regard.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-676

S.J.R. 241—Senator Little

#### SENATE JOINT RESOLUTION

COMMENDING AUBURN UNIVERSITY ON THE OUTSTANDING SUCCESS OF ITS GENERATIONS FUND.

WHEREAS, Auburn University has recently announced that its Generations Fund has generated over \$100 million in cash and pledges for university programs; and

WHEREAS, this outstanding effort to raise funds from private sources is indicative of the high regard which the University enjoys among alumni, foundations, corporations and friends of the institution; and

WHEREAS, the combination of state support and private contributions from the Generations Fund will greatly strengthen the University, thereby making Alabama more attractive for business and industry; and

WHEREAS, this successful fund-raising effort is intended to supplement funds provided by the Legislature and thereby provides a margin of excellence that state funds alone could not provide; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we commend the Auburn University Foundation, its alumni, faculty, students and friends for providing this record of private support and assure them that the Alabama Legislature will continue its support so that Auburn University can achieve its full potential.

BE IT FURTHER RESOLVED, That copies of this resolution be sent to the members of the Board of the Auburn University Foundation, Board of Trustees and President James E. Martin so they will know of our pride in this accomplishment.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-677

S.J.R. 246—Senator Corbett

### SENATE JOINT RESOLUTION

EXPRESSING THE LEGISLATURE'S SUPPORT OF UNIVERSAL AND EQUITABLE LONG DISTANCE TELEPHONE SERVICE RATES.

WHEREAS, one of the results of the breakup of the Bell System has been the increased number of companies offering long distance telephone services in Alabama, now including America's largest retailer, Sears Roebuck, which has entered the long distance marketplace in Alabama as a promoter of the services of MCI, the second largest long distance company; and

WHEREAS, while the end of the long distance telephone monopoly should be good news to Alabama consumers, concerns have been raised that the alleged benefits of competition are not being passed on to the consumer and that the regulatory burdens are not being shared equally by all the long distance competitors; and

WHEREAS, for example, we are informed that Sears and MCI may receive a 35 percent discount on charges for access to local telephone companies even though there is no significant difference in the actual economic costs of providing this access, thereby giving them a major cost advantage over their chief competitor, AT&T, though apparently they are not required to fully pass on these cost savings to the consumer. A second advantage is that AT&T serves all telephone users in Alabama, but its competitors are free to serve only the most profitable areas; consequently, many of the state's telephone users, particularly those in rural areas that AT&T competitors do not wish to serve, must pay more because AT&T does not receive the 35 percent discount; and

WHEREAS, in the case of long distance resellers, they are apparently entitled to purchase for resale AT&T's services at less than AT&T's cost, but again the resellers are not passing the savings on to consumers. There also is little, if any, oversight of the rates charged by resellers, while AT&T's rates are strictly regulated; and



WHEREAS, a final concern relates to the overall level of access charges for connections to the local telephone companies. We are informed that Alabama imposes the highest such charges in the U.S. and that they are not based on economic costs; consequently, Alabama consumers pay the highest intrastate long distance rates in the country, and we fail to see why Alabamians should be required to pay more for long distance than consumers in Georgia, Mississippi, or any other state; and

WHEREAS, it is the desire of this Legislature that steps should be taken to eliminate the regulatory inequities that now exist among long distance competitors and to eliminate the high costs that keep long distance rates too high in Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby go on record in support of universal and equitable long distance telephone service rates and urge the Alabama Public Service Commission to take whatever action necessary to insure equal discount service to all telephone consumers in the State of Alabama.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the Alabama Public Service Commission.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-678

S.J.R. 263—Senator Mitchem

### SENATE JOINT RESOLUTION

DECLARING THE WEEK OF JUNE 2-8, 1985, ALABAMA POULTRY WEEK.

WHEREAS, The poultry industry is Alabama's largest farm industry, with gross farm receipts in excess of \$700 million annually, or more than 30 percent of the total agricultural income in Alabama; and

WHEREAS, This industry, through its wholesome products and the thousands of jobs it creates for the citizens of this state, adds much to the health, welfare and economic stability of Alabama; and

WHEREAS, Alabama ranks third in the nation in broiler production and tenth in the production of eggs; and

WHEREAS, Herman McElrath of Albertville, Alabama, has served with dedication and distinction as Chairman of the Board of the

Alabama Poultry & Egg Association, the cornerstone of this state's poultry industry; and

WHEREAS, It is proper to publicize to the general public the attributes of this major Alabama industry; and

WHEREAS, More than 2,000 members and supporters of the Alabama Poultry & Egg Association will meet in Birmingham, June 7-8, 1985, to celebrate the 33rd Annual Alabama Poultry & Egg Convention; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the week of June 2-8, 1985, is hereby declared "ALABAMA POULTRY WEEK."

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-679

S.J.R.295—Senators Little, Aldridge, Amari, Bailey, Barron, Bedford, Bedsole, Bennett, Bishop, Cabaniss, Cooley, Corbett, Covington, deGraffenried, Denton, Dial, Dixon, Drinkard, Ellis, Figures, Foshee, Goodwin, Hand, Hilliard, Holmes, Horn, Langford, Menton, Mitchem, Parsons, Sanders, Smith (B), Smith (J), Strong, and Teague

#### SENATE JOINT RESOLUTION

COMMENDING FORMER U.S. REPRESENTATIVE CARL ELLIOTT OF JASPER, ALABAMA.

WHEREAS, Carl Elliott of Jasper, Alabama, served eight consecutive terms, 1948-1964, in the United States Congress, representing Alabama's then Seventh Congressional District; and

WHEREAS, during his notable tenure in the Congress, Carl Elliott served on a number of important committees, and was most particularly distinguished through service as a member of the Rules Committee in the U.S. House of Representatives; and

WHEREAS, Congressman Elliott, who was instrumental in passing legislation for education, libraries, the elderly and needy, was the author of the National Defense Education Act which enable thousands

of American citizens to receive an education that they might not otherwise have been able to afford; and

WHEREAS, among other numerous achievements, Carl Elliott is a distinguished author and attorney and, since leaving the Congress, has been engaged in the practice of law in Jasper; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Carl Elliott of Jasper, Alabama, for distinguished service to the State of Alabama and the nation.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Congressman Elliott that he may know of our sincere and deep admiration for his accomplishments on our behalf.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-680

S.J.R. 306—Senator Denton

#### SENATE JOINT RESOLUTION

MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO REJECT THOSE PORTIONS OF THE PROPOSED TAX SIMPLIFICATION PLANS WHICH WOULD ELIMINATE CAPITAL GAINS TREATMENT FOR THE SALE OF TIMBER AND REQUIRE THE CAPITALIZATION OF COSTS ASSOCIATED WITH GROWING TIMBER, AND URGING THE ALABAMA CONGRESSIONAL DELEGATION TO OPPOSE, WITH ALL THE STRENGTH AT THEIR DISPOSAL, THE PASSAGE OF SUCH A MEASURE.

WHEREAS, the Alabama Legislature has been informed that several proposed Federal tax bills include the substantial elimination of capital gains treatment on the sale of timber and require capitalization of timber growing costs now treated as ordinary expenses; and

WHEREAS, this information has caused the Legislature and a large segment of the population of the State great concern in view of the fact that timber and forest products generally constitute the No. 1 farm crop of the State; and

WHEREAS, the enacting into law of any of these proposals will most certainly affect the economy of the State very adversely; and

WHEREAS, the Legislature notes that many less advantageous crops of this State have, through recent years, been shifted to forests,

and that thousands of acres of land formerly planted in less productive crops are now planted in vast forests resulting in great financial gain to the State; and

WHEREAS, the members of the Legislature believe that any effort to saddle this important industry of the State with an additional tax burden would break faith with many of our landowners who have been urged to practice forestry and serve to greatly discourage the further advancement of this most important crop; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby memorialize the Congress of the United States to reject those portions of the tax simplification programs which propose the substantial elimination of the treatment of the sale of timber as capital gains and require the capitalization of ordinary expenses related to the growing of timber.

BE IT FURTHER RESOLVED, That we urge the members of the congressional delegation from Alabama to oppose, with all the strength at their command, the enactment of this legislation.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to the presiding officers of the two Houses in the Congress and to each member of the Alabama Congressional Delegation.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-681

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H. 941—Reps. Parker, Martin, Drake, Smith, Bugg, Tanner, Lauderdale, Carter, Onderdonk, Starkey, Moore, Clark (D), Goodwin, Albright, Grayson, Junkins, Newman, Clark (J), Richardson, Blake, Zoghby, Burke, Trammell, Boles, Gray, Spratt, Escott, White (G), Ford, Harvey, Bowling, White (L), Cosby, Johnson (Roy), Warren, Grouby, Carothers, Flowers, Gaston, Beasley, Hammett, Venable, Johnson (RG),

Laird, Adams, Crow,  
Browder, Kvalheim, Penry,  
Lindsey, Mathis, McMillan,  
Harper, Marietta, Turner,  
Blakeney, and Holley

## AN ACT

To require certain prospective employers to request from the public safety department records of all convictions, if any, for sex crimes of prospective employees; to exempt employees hired prior to the effective date of this act; to require certain other prospective employees or volunteers, and employees hired prior to the effective date of this act to sign statements which require disclosure of prior sex crime convictions; to define the term "sex crimes"; to provide penalties for submitting false information on such statements; to require the public safety department to furnish such statement forms and the information to be contained thereon; to require the employer to keep such statements for a period of time and to send copies to the public safety department, which shall keep such copies for a certain period of time; to provide for complete checks for prior sex crime convictions at the request of the employer and on a random sample basis of the department and to require the department to notify local law enforcement agencies and employers of such prior convictions; to provide for confidentiality of all reports, records and statements required by this act; and to provide that this act shall be effective September 1, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Certain prospective employers enumerated herein shall request from the department of public safety records of all available convictions involving any sex crimes of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor under 18 years of age.

(a) The following employers shall request such a check upon hiring a person or otherwise selecting an applicant to be employed:

(1) Any public or private school or school system with grades kindergarten through the twelfth (12th) grade;

(2) Any day care or child care facility whether public or private;

(3) Any person who cares for children in their home, in the home of the child or other places, on a regular day-to-day basis;

(4) Any public or private domiciliary home for children or orphanages;

(5) Any public or private intermediate or long-term care facilities providing care or treatment for mental, physical, emotional or rehabilitative conditions or diseases for a child or children; and

(6) Any correctional or detentional facility operated by any state or local governmental agency.

(b) The department of public safety shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant, and the department of public safety may charge a fee to be paid by the employer for the actual cost of processing the request.

(c) The department of public safety shall adopt such regulations as are necessary to implement the provisions of this act.

(d) No check of an employee's record for prior sex crime convictions shall be required of any employee who was employed prior to the effective date of this act, except as provided in Section 2. No one may be hired by any licensed child care facility in Alabama who has been convicted of murder, rape in the first degree, assault in the first degree, kidnapping in the first degree, arson in the first degree or of a crime dealing with abuse of children.

**Section 2.** Every employer, other than those enumerated in Section 1, which employs or uses the services of volunteers or paid employees in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children, shall obtain from the volunteer or employee a statement signed by the volunteer or employee whether he or she has ever been convicted of a sex crime, and if so to fully disclose all such convictions.

(a) The department of public safety shall furnish to employers on request form copies of the required statement to be signed and marked appropriately by the prospective employee or volunteer. The form statement shall contain the following information:

(1) A list of the sex crimes brought within the contemplation of this law;

(2) A notation that the statement may be verified by a check of the records of the department of public safety including the information contained in the National Crime Information Center (NCIC) computer;

(3) A statement of the penalty for failure to provide accurate and truthful information.

(4) Such other information as the department of public safety deems appropriate to fulfill the requirement and intent of this act.

(b) Within ten (10) days from the hiring of the employee or initiation of services of the volunteer, the employer shall forward a copy of the completed statement to the department of public safety and the employer shall maintain the original of the employee's or volunteer's statement for a period of three (3) years after the employee or volunteer has discontinued employment or service with the employer. The department of public safety shall maintain the copy of

the statement for a period of one year if it states the employee or volunteer has no prior conviction of sex crimes. Statements which state the employee or volunteer has a prior conviction of sex crimes shall be maintained by the department of public safety indefinitely.

(c) The department of public safety shall provide a procedure to periodically randomly verify a sample of statements submitted by performing complete checks for prior convictions of sex crimes, to include a search of the information contained in the National Crime Information Center (NCIC) computer. In addition, employers or prospective employers may request a complete check of his employee or prospective employee. Should a request for a complete check by an employer or prospective employer or should a random verification process reveal that an employee has submitted false information, the department of public safety shall immediately notify the employer and an appropriate local law enforcement agency for investigation and possible prosecution.

**Section 3.** Any employee or prospective employee who falsely makes a statement or intentionally withholds information mandated by this act shall be fined no less than \$500.00 nor more than \$1,000.00; and may be incarcerated in the county jail for not more than six (6) months.

**Section 4.** Any employee or volunteer in subsections (a)(1) through (a)(5) of Section 1, who is exempt from a complete check of prior convictions of sex crimes by virtue of subsection (d) of Section 1, shall be required to submit a statement regarding prior sex crime convictions to his or her employer as described in Section 2 hereof within ninety (90) days of the effective date of this act. The employer shall be required to meet the requirements of this Section 2 with regard to maintaining the original statement and forwarding a copy to the department of public safety.

**Section 5.** As used in this act the term "sex crimes" includes sexual abuse or exploitation as defined in subsections (d)(2) and (3) of Section 26-15-2, incest as defined in Section 13A-13-3 and those enumerated sexual offenses in Sections 13A-6-60 through 13A-6-70, and exploitation as defined in Section 13A-12-196, all sections of the Code of Alabama 1975. Conviction for a violation or attempted violation of an offense committed outside the state of Alabama is a sex crime if such offense would have been a crime in Alabama under one (1) of the above sections if committed in Alabama.

**Section 6.** The department of public safety and employers who are under the requirements of this act shall insure that all reports, records and statements required by this act shall be confidential and shall not be made available for public inspection.

**Section 7.** This act shall become effective on September 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-682

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H. 945—Reps. Martin, Drake, Smith, Bugg, Tanner, Parker, Onderdonk, Lauderdale, Biddle, Clark (D), Goodwin, Albright, Moore, Grayson, Junkins, Newman, Clark (J), Richardson, Blake, Zoghby, Spratt, Burke, Trammell, Boles, Gray, Escott, White (G), Ford, Harvey, Bowling, White (L), Cosby, Johnson (Roy), Warren, Grouby, Carothers, Flowers, Gaston, Beasley, Hammett, Venable, Johnson (RG), Laird, Adams, Crow, Browder, Kvalheim, Penry, Lindsey, Mathis, McMillan, Harper, Marietta, Turner, Blakeney, and Holley

## AN ACT

Relating to victims of child abuse and neglect; to require the Department of Pensions and Security to develop multi-disciplinary child protection teams throughout the state to assist and supplement protective services for such children; to provide for the composition and functions of such teams and to avoid duplication of certain services; to provide for an ad hoc advisory committee to develop guidelines for the operations of such teams, subject to approval by the Governor; to provide for annual reports on the operation of such teams; to provide that the act shall become effective October 1, 1985; and to preserve such teams in existence as of October 1, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Department of Pensions and Security shall provide for the development and coordination of the multi-disciplinary child protection teams created by this act and for the services to be provided by such teams throughout the state. Such teams shall be composed of representatives from the local departments of pensions and security, the local law enforcement agencies, the local district attorneys' offices, and the local educational agencies. The teams may



also include representative from the local health field, mental health services, local social service agencies, and local members of the legal profession. Representatives of other professions or disciplines may be included if the local team as established deems them useful or necessary.

**Section 2.** The Department of Pensions and Security shall adopt guidelines and criteria relating to the operations and functions of the team as promulgated by the advisory committee created pursuant to Section 3 hereof. The guidelines will be supplemental to the existing protective service activities of the children, youth, and family programs of the State of Alabama. Nothing in this section shall be construed to remove or reduce the duty and responsibility of any person to report all suspected or actual cases of child abuse or neglect or sexual abuse of a child pursuant to law. The general role of the teams shall be to support activities of the program and to provide services to abused and neglected children upon referral by the county departments of pensions and security, or any other agency as set forth in the guidelines and criteria established.

To the extent that resources are available to each of the various teams throughout the state, the functions of the teams shall include, but not be limited to, the following specific functions:

(a) To provide comprehensive medical and psychological programs for the identification and diagnosis of child abuse and for treatment and rehabilitation programs for abused children, and their family members.

(b) To provide case service coordination and assistance, including the types and locations of services available to abused children and their family members from other public or private agencies in the community in an effort to provide the fullest range of services while avoiding the duplication of services.

(c) To provide for educational and community awareness campaigns on child abuse and neglect in an effort to enable citizens more successfully to prevent, identify, and report and treat child abuse and neglect victims in the community.

**Section 3.** Upon the effective date of this act, an ad hoc child abuse protection team advisory committee shall be created and shall consist of the following members: The Governor of the State of Alabama or his designated representative; the Director of the Department of Pensions and Security; the Executive Director of the Child Abuse Trust Fund; the President of the State Parents Teachers Association; two judges in the State of Alabama that preside over courts exercising juvenile jurisdiction to be selected by the Chief Justice of the Alabama Supreme Court; one representative from the association of county Department of Pensions & Security County

Directors to be selected by the Governor; the Executive Director of the Office of Prosecution Services; the Chairman of the Victims Compensation Commission; and two other members selected by the President of the Child Abuse Trust Fund.

The committee shall study the operational aspects of multi-disciplinary child protection teams, hereinafter referred to as teams, including both existing teams and those teams to be created pursuant to this act, and shall promulgate guidelines for the reporting or referral of child abuse or neglect cases to the teams. The committee shall present their guidelines within 3 months after the committee is formed to the Governor.

Upon final approval of such guidelines by the Governor, the teams shall begin organizing and as soon as it is practicable shall begin to carry out their functions.

In order to ensure the effective implementation of these teams, the Director of the Department of Pensions and Security shall submit a report on the overall operation of these teams to the Joint Legislative Committee on Children and Youth within 30 days of the beginning of each annual Regular Session of the Alabama Legislature.

**Section 4.** Child abuse prevention teams in existence as of October 1, 1985, shall not be replaced by the provisions of this act. Such existing teams are hereby expressly preserved and shall be exempt from the provisions of this act.

**Section 5.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws in conflict with this Act are hereby repealed.

**Section 7.** This Act shall become effective October 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-683

H. 920—Rep. Laird

## AN ACT

To authorize and make provision for the incorporation in any City in the State of Alabama of a Downtown Redevelopment Authority for the purpose of promoting trade and commerce by inducing commercial enterprises to upgrade, improve, modernize, and expand existing facilities and to locate new facilities in the central business district of any such City; to define the area of such central business district; to provide

for the election and compensation of directors of any such Authority; to provide for the powers, authorities and duties of such Authority, its board of directors, and its officers; to authorize such Authority to acquire by purchase, construction, exchange, gift, lease or otherwise and to refinance existing indebtedness on, improve, maintain, equip and furnish land and buildings or other improvements thereon and all real and personal properties necessary in connection therewith whether or not now existing, suitable for use by any commercial enterprise, provided that such property shall be located wholly within the Downtown Development Area herein defined; to authorize any such Authority to lease such properties to others; to authorize any such Authority to sell, exchange, donate or convey and to grant options to any lessee to acquire such properties; to provide for the issuance by any such Authority for any of its corporate purposes of interest-bearing revenue bonds and other interest-bearing securities, payable solely out of the revenues and receipts derived from the leasing or sale of such properties; to provide that in certain circumstances such securities shall constitute negotiable instruments; to provide that such securities may be secured by a pledge of the revenues and receipts from which they are payable, by contracts binding any such Authority for the proper application of its revenues and receipts and of the proceeds of such securities, and by mortgages and deeds of trust and trust indentures on the property out of the revenues and receipts from which such securities are payable; to authorize the Authority to finance, construct, acquire, purchase, renovate, maintain, improve, sell, equip, operate or manage projects; to apply for and use government or private financial assistance; to contract to use facilities or services of the federal, state or local governments or allow them to use facilities or services of the Authority; to make loans to persons or entities for the costs of a project on such security and with such terms and conditions as the Authority deems appropriate; to provide for the employment by any such Authority of such officers, employees, contractors, consultants and agents as its business may require; to provide for the taking out by any such Authority of various types of insurance; to require payments in lieu of taxes to be made to the Authority or the City; to receive the proceeds of municipal taxes levied for the Authority's purposes; to promote revitalization of the Downtown Development Area and make plans and proposals therefor; to provide for the investment of funds of any such Authority; to provide for the use of the proceeds of any such securities issued by any such Authority; to provide for the refunding, by the issuance of such securities of any such Authority, of securities theretofore issued by it; to provide that such securities issued and contracts entered into by any such Authority pursuant to this Act shall not constitute or create a debt of the state or of any county, municipality or political subdivision of the State; to make the securities issued by any such Authority eligible investments for various governmental bodies and fiduciaries; to provide that any such Authority may, in its discretion, publish a notice of the adoption of a resolution authorizing the issuance of bonds by such Authority, and to provide that any action or proceeding questioning the validity of such bonds, or any pledge, mortgage and deed of trust or trust indenture securing the same, or the proceedings authorizing the same, must be commenced within thirty (30) days after the first publication of said notice; to exempt the income of any such Authority, and all conveyances, leases, mortgages and deeds of trust to which any such Authority is a party, from all taxation in the state except for the state ad valorem taxes; to exempt every such Authority from all license and excise taxes imposed in respect of the privilege of engaging in any of the activities in which an Authority may engage and to exempt such Authority from payment of certain charges to Judges of Probate; to exempt every such Authority from all laws of the State governing usury or prescribing or limiting interest rates; to exempt every such Authority from all laws of the state requiring competitive bids for contracts to be entered into by municipalities or public corporations; to exempt every such Authority from the supervision and control of state agencies, in particular the State Department of Finance; to provide for the disposition of the earnings, if any, of any such Authority; to provide for the dissolution of any such Authority and the disposition of its property; to limit to one the number of such Authorities which may exist in any municipality at any one time; to give the Authority the power of

eminent domain; and to authorize political subdivisions, agencies, instrumentalities and public corporations of the state to aid the Authority with loans or grants of money, the furnishing of services or the transfer of property to the Authority without any public election; to require the treasurer to obtain a fidelity bond equal to the amount of any public funds held by the Authority; to require compliance with the competitive bid law with respect to any projects receiving public funds; and to require a public hearing prior to the expenditure of any public funds; to provide for the reincorporation of, and to validate the acts of, certain authorities previously established; to provide that the provisions of this Act are cumulative and severable and to provide for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1. Legislative Intent.** The revitalization and redevelopment of the central business district of any City in Alabama develops and promotes for the public good and general welfare trade, commerce, industry and employment opportunities and promotes the general welfare of the City and State by creating a climate favorable to the location of new industry, trade and commerce. Revitalization and redevelopment of such central business district by financing projects under the Act will develop and promote for the public good and general welfare trade, commerce, industry and employment opportunities and will promote the general welfare of the City and State. It is therefore in the public interest and is vital to the public welfare of the people of Alabama, and it is hereby declared to be the public purpose of this Act, to so revitalize and redevelop the central business district of any City in the State.

**Section 2. Definitions.** The following words and phrases used in this Act, and others evidently intended as the equivalent thereof, shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

1. "Applicant" means a natural person who files a written application with the Governing Body of any City in accordance with the provisions of Section 4 hereof.

2. "Authority" means any Downtown Redevelopment Authority organized pursuant to the provisions of this Act.

3. "Authorizing Resolution" means a resolution adopted by the Governing Body of any City in accordance with the provisions of Section 4 hereof, that authorizes the corporation of the Authority.

4. "Board" means the Board of Directors of the Authority.

5. "Bonds" means and shall include bonds, notes and certificates representing an obligation to pay money.

6. "City" means any incorporated city or town in the State of Alabama with respect to which a Downtown Redevelopment Authority may be organized.

7. "Director" means a member of the Board of the Authority.

8. "Downtown Development Area" means the downtown central business district of the City and shall include areas used predominately for business and commercial purposes.

9. "Governing Body" means, with respect to any City, its city council, board of commissioners, or other like governing body.

10. "Incorporators" means the persons forming a public corporation organized pursuant to the provisions of this Act.

11. "Person" unless limited to a natural person by the context in which it is used, includes a public or private corporation, a Municipality, a County, or an agency, department or instrumentality of the State, or of a County or Municipality.

12. "Principal Office" means the place at which the certificate of incorporation and amendments thereto, the by-laws and the minutes of the proceedings of the Board of the Authority are kept.

13. "Project" means interests in land, buildings, structures, facilities or other improvements located or to be located within the Downtown Development Area, and any fixtures, machinery, equipment, furniture or other property of any nature whatsoever used on, in or in connection with any such land, interest in land, building, structure, facility or other improvement, all for the essential public purpose of the development of trade, commerce, industry and employment opportunities in the Downtown Development Area. A project may be for any industrial, commercial, business, office, parking, utility, residential (including without limitation homes, apartments, town houses, condominiums, hotels and motels) or other use, provided that a majority of the members of the Authority determine, by a resolution duly adopted, that the project and such use thereof would further the public purpose of this Act.

14. "State" means the State of Alabama.

**Section 3.** Use of Phrases. The following provisions shall be applied wherever appropriate herein:

"Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this Act as an entirety and not solely to the particular section or portion thereof in which any such word is used.

The definitions set forth in Section 2 hereof shall be deemed to include both singular and plural and to cover all genders.

**Section 4.** Filing of Application; Authorization of Incorporation by Governing Body of City. An Authority may be organized pursuant to the provisions of this Act. In order to incorporate such a public corporation, any number of natural persons, not less than three, who are duly qualified electors of the City, shall first file a written

application with the Governing Body of the City, which application shall:

(1) Contain a statement that the Applicants propose to incorporate the Authority pursuant to the provisions of this Act;

(2) State the proposed location of the Principal Office of the Authority, which shall be within the corporate limits of the City; and

(3) State that each of the Applicants is a duly qualified elector of the City; and

(4) Request that the Governing Body of the City adopt a resolution declaring that it is wise, expedient, and necessary that the proposed Authority be formed and authorizing the Applicants to proceed to form the proposed Authority by the filing for record of a certificate of incorporation in accordance with the provisions of Section 5 hereof.

Every such application shall be accompanied by such supporting documents or evidence as the Applicants may consider appropriate. As promptly as may be practicable after the filing of the application with it in accordance with the provisions of this section, the Governing Body of the City shall review the contents of the application, and shall adopt a resolution either (a) denying the application or (b) declaring that it is wise, expedient, and necessary that the proposed Authority be formed and authorizing the Applicants to proceed to form the proposed Authority by filing for record of a certificate of incorporation in accordance with the provisions of Section 5 hereof. The Governing Body with which the application is filed shall also cause a copy of the application to be spread upon or otherwise made a part of the minutes of the meeting of such Governing Body at which final action upon said application is taken.

**Section 5.** Procedure to Incorporate; Contents and Execution of Certificate of Incorporation. Within forty (40) days following the adoption of the Authorizing Resolution the Applicants shall proceed to incorporate the Authority by filing for record in the office of the Judge of Probate of the County wherein the City is located a certificate of incorporation which shall comply in form and substance with the requirements of this section and which shall be in the form and executed in the manner herein provided.

The certificate of incorporation of the Authority shall state:

(1) The names of the persons forming the Authority, and that each of them is a duly qualified elector of the City;

(2) The name of the Authority, which shall include the name of the city in its title as follows:

“The \_\_\_\_\_ Downtown Redevelopment Authority;”

(3) The period for the duration of the Authority (if the duration is to be perpetual, subject to the provisions of Section 20 hereof, that fact shall be stated);

(4) The name of the City together with the date on which the Governing Body thereof adopted the Authorizing Resolution;

(5) The location of the Principal Office of the Authority, which shall be within the corporate limits of the City;

(6) That the Authority is organized pursuant to the provisions of this Act; and

(7) Any other matters relating to the Authority that the Incorporators may choose to insert and that are not inconsistent with this Act or with the laws of the State.

The certificate of incorporation shall be signed and acknowledged by the Incorporators before an officer authorized by the laws of the State to take acknowledgements to deeds. When the certificate of incorporation is filed for record, there shall be attached to it (a) a copy of the application as filed with the Governing Body of the City in accordance with the provisions of Section 4 hereof, and (b) a certified copy of the Authorizing Resolution adopted by the Governing body of the City. Upon the filing for record of the said certificate of incorporation and the documents required by the preceding sentence to be attached thereto, the Authority shall come into existence and shall constitute a public corporation under the name set forth in said certification of incorporation. The Judge of Probate shall thereupon send notice to the Secretary of State that the certificate of incorporation of the Authority has been filed for record.

**Section 6.** Amendments to Certificate of Incorporation. The certificate of incorporation of the Authority incorporated under the provisions of this Act may at any time and from time to time be amended in the manner provided in this section. The Board shall first adopt a resolution proposing an amendment to the certificate of incorporation which shall be set forth in full in the said resolution and which amendment may include any matters which might have been included in the original certificate of incorporation.

After the adoption by the Board of a resolution proposing an amendment to the certificate of incorporation of the Authority, the chairman of the Board and the secretary of the Authority shall sign and file a written application in the name of and on behalf of the Authority, under its seal, with the Governing Body of the City, requesting such Governing Body to adopt a resolution approving the proposed amendment, and accompanied by a certified copy of the said resolution adopted by the Board proposing the said amendment to the certificate of incorporation, together with such documents in

support of the application as the said chairman may consider appropriate. As promptly as may be practicable after the filing of the said application with the Governing Body of the City pursuant to the foregoing provisions of this section, that Governing Body shall review the said application and shall adopt a resolution either denying the said application or authorizing the proposed amendment. Such Governing Body shall also cause a copy of the said application and all accompanying documents to be spread upon or otherwise made a part of the minutes of the meeting of said Governing Body at which final action upon the said application is taken.

Within forty (40) days following the adoption by the Governing Body of the City of a resolution approving the proposed amendment the chairman of the Board of the Authority and the secretary of the Authority shall sign, and file for record in the office of the Judge of Probate of the County of incorporation a certificate in the name of and in behalf of the Authority under its seal reciting the adoption of said respective resolutions by the Board and by the said Governing Body and setting forth the said proposed amendment. The Judge of Probate for such County shall thereupon record such certificate in an appropriate book in his office. When such certificate has been so filed and recorded, such amendment shall become effective and the certificate of incorporation shall thereupon be amended to the extent provided in the amendment. No certificate of incorporation of the Authority shall be amended except in the manner provided in this section.

**Section 7. Board of Directors.** Each Authority shall be governed by a Board of Directors. All powers of the Authority shall be exercised by the Board or pursuant to its authorization. The Board shall consist of any number of Directors, not less than three, who shall be elected by the Governing Body of the City for staggered terms as hereinafter provided. At the time of the election of the first Board, the Governing Body of the City shall divide the Directors into three groups containing as nearly equal whole numbers as may be possible. The Governing Body of the City shall specify for which term each Director is elected. The initial term of office of the first group shall be two years each. The initial terms of office of the second group shall be four years each. The initial term of office of the third group shall be six years. Thereafter, the term of office of each such Director shall be six years. If at the expiration of any term of office of any Director, a successor thereto shall not have been elected, then the Director whose term of office shall have expired shall continue to hold office until his successor shall be so elected. If at any time there should be a vacancy on the Board, a successor Director to serve for the unexpired term applicable to such vacancy shall be elected by the Governing Body of the City. No officer or employee of the State or of any County or Municipality shall, during his tenure as such



officer, be eligible to serve as a Director. Each Director must be a duly qualified elector of the City. Directors shall be eligible for re-election. Each Director shall be reimbursed for expenses actually incurred by him in and about the performance of his duties. Any Director of the Authority may be impeached and removed from office in the same manner and on the same grounds provided in Section 175 of the Constitution of Alabama and the general laws of the State for impeachment and removal of the officers mentioned in Section 175.

**Section 8. Officers of the Authority.** The officers of the Authority shall consist of a chairman, vice chairman, secretary, treasurer, and such other officers as its Board shall deem necessary or appropriate. The offices of secretary and treasurer may, but need not, be held by the same person. The chairman and vice chairman of the Authority shall be elected by the Board from the membership thereof; the secretary, the treasurer, and any other officers of the Authority may, but need not, be members of the Board and shall also be elected by the Board. The chairman, vice chairman, secretary and treasurer of the Authority shall also be the chairman, vice chairman, secretary and treasurer of the Board, respectively.

Prior to receipt by the Authority of any tax revenues from the City, any county, state or federal governments, the treasurer of the Authority shall provide evidence to the governmental entity from which the funds are to be received of procurement of a fidelity bond in an amount equal to or greater than the amount of tax funds to be received and that the company issuing the bond is qualified to issue fidelity bonds in the State of Alabama.

**Section 9. Powers of Authority.** (a) The Authority shall have the following powers, together with all powers incidental thereto or necessary to the discharge thereof in corporate form:

(1) To have succession by its corporate name for the duration of time (which may be perpetuity, subject to the provisions of Section 20 hereof) specified in its certificate of incorporation;

(2) To sue and be sued in its own name and to prosecute and defend civil actions in any court having jurisdiction of the subject matter and of the parties;

(3) To adopt and make use of a corporate seal and to alter the same at pleasure;

(4) To adopt and alter by-laws for the regulation and conduct of its affairs and business;

(5) To acquire, whether by purchase, construction, exchange, gift, lease or otherwise and to refinance existing indebtedness on,

improve, maintain, equip and furnish one or more Projects, including all real and personal properties which the Board of the Authority may deem necessary in connection therewith, regardless of whether or not any such Projects shall then be in existence;

(6) To lease to others any or all of its Projects and to charge and collect rent therefor, and to terminate any such lease upon the failure of the lessee to comply with any of the obligations thereof;

(7) To sell, exchange, donate or convey and to grant options to any lessee to acquire any of its Projects and any or all of its properties whenever its Board shall find any such action to be in furtherance of the purposes for which the Authority was organized;

(8) To issue its Bonds for the purpose of carrying out any of its powers;

(9) To mortgage and pledge any or all of its Projects or any part or parts thereof, as security for the payment of the principal of and interest on any Bonds so issued and any agreements made in connection therewith, whether then owned or thereafter acquired, and to pledge the revenues and receipts therefrom or from any thereof;

(10) To execute and deliver, in accordance with the provisions of this section and Section 10 hereof, mortgages and deeds of trust and trust indentures, or either;

(11) To finance (by loan, grant, lease or otherwise), construct, erect, assemble, purchase, acquire, own, repair, remodel, renovate, rehabilitate, modify, maintain, extend, improve, install, sell, equip, expand, add to, operate or manage projects and to pay the cost of any project from the proceeds of Bonds, or any other funds of the Authority, or from any contributions or loans by persons, corporations, partnerships (limited or general) or other entities, all of which the Authority is hereby authorized to receive and accept and use;

(12) To issue and use the proceeds thereof for the purpose of paying, or loaning the proceeds thereof to pay all or any part of the cost of any project and otherwise to further or carry out the public purpose of the Authority and to pay all costs of the Authority incident to, or necessary and appropriate to, furthering or carrying out such purpose;

(13) To make application directly or indirectly to any federal, state, county or municipal government or agency or to any other source, public or private, for loans, grants, guarantees or other financial assistance in furtherance of the Authority's public purpose and to accept and use the same upon such terms and conditions as are prescribed by such federal, state, county or municipal government or agency or other source;

(14) To enter into agreements with the federal government or any agency thereof to use facilities or the services of the federal government or any agency thereof in order to further or carry out the public purposes of the Authority;

(15) To contract for any period with the State of Alabama, State institutions or any city, town, municipality or county of the State for the use by the Authority of any facilities or services of the State or any such State institution, city, town, municipality or county, or for the use by any State institution or any city, town, municipality or county of any facilities or services of the Authority, provided such contracts shall deal with such activities and transactions as the Authority and any such political subdivision with which the Authority contracts are by law authorized to undertake;

(16) To extend credit or make loans to any person, corporation, partnership (limited or general) or other entity for the costs of any Project or any part of the costs of any Project, which credit or loans may be evidenced or secured by loan agreements, notes, mortgages, deeds to secure debt, trust deeds, security agreements, assignments or such other instruments, or by rentals, revenues, fees or charges, upon such terms and conditions as the Authority shall determine to be reasonable in connection with such extension of credit or loans, including provision for the establishment and maintenance of reserve funds, and, in the exercise of powers granted hereby in connection with any project, the Authority shall have the right and power to require the inclusion in any such loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment or other instrument of such provisions or requirements for guaranty of any obligations, insurance, construction, use, operation, maintenance and financing of a project, and such other terms and conditions, as the Authority may deem necessary or desirable.

(17) To acquire, accept or retain equitable interests, security interests or other interests in any real property, personal property or fixtures by loan agreement, note, mortgage, deed to secure debt, trust deed, security agreement, assignment, pledge, conveyance, contract, lien, loan agreement or other consensual transfer in order to secure the repayment of any monies loaned or credit extended by the Authority;

(18) To appoint, employ, contract with, and provide for the compensation of, such officers, employees and agents, including but without limitation, to engineers, attorneys, contractors, consultants, and fiscal advisors, as the Board shall deem necessary for the conduct of the business of the Authority;

(19) To provide such insurance as the Board may deem advisable;

(20) To make, enter into, and execute such contracts, agreements, leases and other instruments and to take such other actions as may be necessary or convenient to accomplish any purpose for which the Authority was organized or to exercise any power expressly granted hereunder;

(21) To require payments in lieu of taxes, other than any sales or use taxes levied by the state or the local sales, use or excise taxes required by state laws to be administered in a parallel manner to state sales or use taxes, to be made by the lessee of the Project to either the Authority or the City;

(22) To receive and use the proceeds of any tax levied by a municipal corporation to pay the costs of any project or for any other purpose for which the Authority may use its own funds pursuant to this Act;

(23) To encourage and promote the improvement and revitalization of the Downtown Development Area and to make, contract for or otherwise cause to be made long-range plans or proposals for the Downtown Development Area in cooperation with the City or the County;

(24) To exercise any power granted by the laws of the State of Alabama to public or private corporations which is not in conflict with the public purpose of the Authority; and

(25) To do all things necessary or convenient to carry out the powers conferred by this Act.

(b) All Projects of the Authority shall be located wholly within the corporate limits of the City and shall be in the Downtown Development Area, which shall be an area defined by the Authority and approved by resolution of the Governing Body of the City.

**Section 10. Bonds of Authority.** (a) Source of Payment. All Bonds issued by the Authority shall be payable solely out of the revenues and receipts derived from the leasing or sale by the Board of its Projects or of any thereof as may be designated in the proceedings of the Board under which the Bonds shall be authorized to be issued.

(b) Pledge of Revenues, Receipts and Other Security. The principal of an interest on any Bonds issued by the Authority shall be secured by a pledge of the revenues and receipts out of which the same may be payable and may be secured by a mortgage and deed of trust or trust indenture conveying as security for such Bonds all or any part of the property of the Authority from which the revenues or receipts so pledged may be derived.

The resolution under which the Bonds are authorized to be issued and any such mortgage and deed of trust or trust indenture

may contain any agreements and provisions respecting the operation, maintenance and insurance of the property covered by said mortgage and deed of trust or trust indenture, the use of the revenues and receipts subject to such mortgage and deed of trust or trust indenture, the creation and maintenance of special funds from such revenues and receipts, the rights, duties and remedies of the parties to any such instrument and the parties for the benefit of whom such instrument is made and the rights and remedies available in the event of default as the Board shall deem advisable and which are not in conflict with the provisions of this Act. Each pledge, agreement, mortgage and deed of trust or trust indenture made for the benefit or security of any of the Bonds of the Authority shall continue effective until the principal of and interest on the Bonds for the benefit of which the same were made shall have been fully paid.

In the event of default in such payment or in any agreements of the Authority made as a part of the contract under which the Bonds were issued, whether contained in the proceedings authorizing the Bonds or in any mortgage and deed of trust or trust indenture executed as security therefore, the rights of any holder of the Bonds may be enforced by mandamus, the appointment of a receiver, or either of said remedies, and foreclosure of such mortgage and deed of trust or trust indenture may, if provided for in said instrument, be had.

(c) Execution. All Bonds issued by the Authority shall be signed by the chairman of its Board and attested by its secretary, and the seal of the Authority shall be affixed thereto, and any interest coupons applicable to the Bonds of the Authority shall be signed by the chairman of its Board; provided, that as long as the registrar of the Bonds has manually signed an authentication certificate for the Bonds, facsimile signatures of both of the said officers may be printed or otherwise reproduced on any such Bonds in lieu of each manually signing the same, a facsimile of the seal of the Authority may be printed or otherwise reproduced on any such Bonds in lieu of being manually affixed thereto, and a facsimile of the signature of the chairman of the Board may be printed or otherwise reproduced on any such interest coupons in lieu of his manually signing the same.

(d) General Provisions Respecting Form, Interest Rate, Maturities, Sale and Negotiability of Bonds. Any such Bonds may be executed and delivered by the Authority at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall contain such provisions not inconsistent with the provisions of this Act, and shall bear such rate or rates of interest, payable and evidenced in such manner, as may be provided by resolution of its Board. Bonds of the Authority may be sold at either public or private sale in such manner and at such price or prices

and at such time or times as may be determined by the Board to be most advantageous. The Authority may pay all expenses, premiums and commissions in connection with any financing done by it. All Bonds, except Bonds registered as to principal or as to both principal and interest, and any interest coupons applicable thereto issued by the Authority shall be construed to be negotiable instruments although payable solely from a specified source.

(e) Nature of Obligation and Source of Payment. All obligations created or assumed and all Bonds issued or assumed by the Authority shall be solely and exclusively an obligation of the Authority and shall not create an obligation or debt of the State or of any County or of the City; provided that the provisions of this sentence shall not be construed to release the original obligor from liability on any Bond or other obligation assumed by the Authority. Any Bonds issued by the Authority shall be limited or special obligations of the Authority payable solely out of its revenues and receipts of the Authority specified in the proceedings authorizing those Bonds.

(f) Eligibility for Investment. Bonds of the Authority are hereby made legal investments for executors, administrators, trustees and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority, and for savings banks and insurance companies organized under the laws of the State.

**Section 11.** Proceeds from the Sale of Bonds. All moneys derived from the sale of any Bonds issued by the Authority shall be used solely for the purpose or purposes for which the same are authorized, including, but without limitation to, the use of Bond proceeds to establish reserve funds as security for the payment of the principal of (and premium, if any) and interest on the Bonds, and any costs and expenses incidental thereto. Such costs and expenses may include but shall not be limited to (1) the fiscal, engineering, legal and other expenses incurred in connection with the issuance of the Bonds, and (2) except in the case of refunding Bonds, interest to accrue on such Bonds for a period ending not later than two (2) years from their date.

**Section 12.** Refunding Bonds. Any Bonds issued by the Authority may from time to time be refunded by the issuance, by sale or exchange, or refunding Bonds payable from the same or different sources for the purpose of paying all or any part of the principal of the Bonds to be refunded, any redemption premium required to be paid as a condition to the redemption prior to maturity of any such bonds that are to be so redeemed in connection with such refunding, any accrued and unpaid interest on the Bonds to be refunded, any interest to accrue on each Bond to be refunded to the date on which it is to be paid, whether at maturity or by redemption prior to

maturity, and the expenses incurred in connection with refunding; provided, that unless duly called for redemption pursuant to provisions contained therein; the holders of any such Bonds then outstanding and proposed to be refunded shall not be compelled without their consent to surrender their outstanding Bonds for such refunding. Any refunding Bonds may be sold by the Authority at public or private sale at such price or prices as may be determined by its Board to be most advantageous, or may be exchanged for the Bonds or other obligations to be refunded. Any such refunding Bonds may be executed and delivered by the Authority at any time and from time to time, shall be in such form and denominations and have such tenor and maturities, shall contain such provisions not inconsistent with the provisions of this Act, and shall bear such rate or rates of interest, payable and evidenced in such manner, as may be provided by resolution of its Board.

Any refunding Bonds issued by the Authority shall be issued and may be secured in accordance with the provisions of Section 10 of this Act.

**Section 13.** Notice of Bond Resolution. Upon the adoption by the Board of the Authority of any resolution providing for the issuance of Bonds, such Authority may, in its discretion, cause to be published once a week for two consecutive weeks, in a newspaper published or having general circulation in the City, a notice in substantially the following form (the blanks being properly filled in) at the end of which shall be printed the name and title of either the chairman or secretary of such Authority. "The \_\_\_\_\_ Downtown Redevelopment Authority, a public corporation under the laws of the State of Alabama, on the \_\_\_\_\_ day of \_\_\_\_\_ authorized the issuance of \$\_\_\_\_\_ principal amount of bonds of the said public corporation for purposes authorized in the act of the Legislature of Alabama under which the said public corporation was organized. Any action or proceeding questioning the validity of the said bonds, or the pledge and the mortgage and deed of trust or trust indenture to secure the same, or the proceedings authorizing the same, must be commenced within thirty (30) days after the first publication of this notice." A newspaper shall be deemed to be published in the City, within the meaning of this section, if its principal editorial office is located in the City.

Any action or proceeding in any court to set aside or question the proceedings for the issuance of the Bonds referred to in said notice or to contest the validity of any such Bonds, or the validity of any pledge and mortgage and deed of trust or trust indenture made therefor, must be commenced within thirty (30) days after the first publication of such notice. After the expiration of the said period no right of action or defense questioning or attacking the validity

of the said proceedings or of the said Bonds or the said pledge or mortgage and deed of trust or trust indenture shall be asserted, nor shall the validity of the said proceedings, Bonds, pledge, mortgage, and deed of trust or trust indenture be open to question in any court on any ground whatsoever except in an action commenced within such period.

**Section 14. Exemption from Taxation.** The Authority formed under this article, the property and income of the Authority (whether used by it or leased to others), all Bonds issued by the Authority, the income from such Bonds or from other sources, the interest and other profits from such Bonds enuring to and received by the holders thereof, conveyances by and to the Authority and leases, mortgages and deeds of trust by and to the Authority shall be exempt from all taxation in the State. The Authority shall not be obligated to pay any fees, taxes or costs to the Judge of Probate of any County in connection with its incorporation or with any amendment to its certificate of incorporation or otherwise or to any Judge of Probate of any County in connection with the recording by it or any document or otherwise, the Authority being hereby exempted from the payment of any such fees, taxes and costs. No license or excise tax may be imposed by any authority with respect to the privilege of engaging in any of the activities authorized by this article.

**Section 15. Liability of City.** The City shall not in any event be liable for the payment of the principal of or interest on any Bonds of the Authority or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the Authority, and none of the Bonds of the Authority or any of its agreements or obligations shall be construed to constitute an indebtedness of the City within the meaning of any constitutional or statutory provision whatsoever.

**Section 16. Exemption from Usury and Interest Laws.** The Authority shall be exempt from the laws of the State of Alabama governing usury or prescribing or limiting interest rates, including, but without limitation to, the provisions of Chapter 8 of Title 8 of the Code of Alabama of 1975, as it may at any time be amended.

**Section 17. Exemption from Competitive Bid Laws.** The Authority and all contracts made by it shall be exempt from the laws of the State of Alabama requiring competitive bids for any contract to be entered into by municipalities or public corporations authorized by them, including, but without limitation to, the provisions of Article 3 of Chapter 16 of Title 41 of the Code of Alabama 1975, as it may at any time be amended.

Provided, however, that the Authority shall comply with the laws of the State of Alabama requiring competitive bids for any



contract made by it to be paid for with tax revenues received from the City, any county or the state or federal governments.

**Section 18.** Freedom of Authority from State Supervision and Control. This Act is intended to aid the State through the furtherance of the purposes of the Act by providing an appropriate and independent instrumentality of the State with full and adequate powers to fulfill its functions. Except as expressly provided in this Act, no proceeding, notice or approval shall be required for the incorporation of the Authority or the amendment of its certificate of incorporation, the issuance of any Bonds, the execution of any mortgage and deed of trust or trust indenture, or the exercise of any other of its powers by the Authority. Neither a public hearing nor the consent of the State Department of Finance shall be prerequisite to the issuance of Bonds by the Authority.

The Authority shall hold a public hearing before approving or obligating the expenditure of any tax revenues received by the Authority from the City, any county, the state or federal governments. Such notice shall be advertised in a newspaper of general circulation in the County of incorporation of the Authority and the notice shall be published not less than seven days prior the hearing.

**Section 19.** Earnings of the Authority. The Authority shall be a nonprofit corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event a Board shall determine that sufficient provision has been made for the full payment of the expenses, Bonds and other obligations of the Authority, than any net earnings of the Authority thereafter accruing shall be paid to the City.

**Section 20.** Dissolution of the Corporation and Vesting of Title to Property in the City. At any time when the Authority has no Bonds or other obligations outstanding, its Board may adopt a resolution, which shall be duly entered upon its minutes, declaring that the Authority shall be dissolved. Upon filing for record of a certified copy of the said resolution in the office of the Judge of Probate of the County, the Authority shall thereupon stand dissolved and in the event it owned any property at the time of its dissolution, the title to all its properties shall thereupon pass to the City.

**Section 21.** Existence of the Authority to Prevent Incorporation of Another by the City. The existence of the Authority incorporated under the provisions of this Act shall prevent the subsequent incorporation hereunder of another Authority pursuant to authority granted by this Act.

**Section 22.** Loans, Sales, Grants, Etc., of Money, Property, Etc., to Authority by Counties, Municipalities, Etc. For the purpose of effecting the revitalization and redevelopment of the central business district of the City, any county, municipality or other political subdivision, public corporation, agency or instrumentality of this State may, upon such terms and with or without consideration, as it may determine:

(1) Lend or donate money to or perform services for the benefit of the Authority;

(2) Donate, sell, convey, transfer, lease or grant to the Authority, without the necessity of authorization at any election of qualified voters, any property of any kind, any interest therein and any franchise; and

(3) Do any and all things, whether or not specifically authorized in this article and not otherwise prohibited by law, that are necessary or convenient in connection with aiding and cooperating with the Authority in its efforts to revitalize and redevelop the central business district of the City.

**Section 23.** Provisions are Cumulative. The provisions of this Act are cumulative and shall not be deemed to repeal existing laws, except to the extent such laws are clearly inconsistent with provisions of this Act.

**Section 24.** Authorities Organized Under Prior Acts. Any downtown redevelopment authority established under Acts 1982, No. 303, Acts 1984, No. 395, Acts 1984, No. 415, Acts 1985, No. 185 or any other authority organized under any Act of this state prior to the effective date of this Act for the purpose of revitalizing or redeveloping the central business district of any city or town in Alabama may reincorporate under the provisions of this Act by the filing of a restated certificate of incorporation with the Judge of Probate of the county wherein the certificate of incorporation of the authority was originally filed for record but the provisions of Section 4 hereof need not be complied with and, if the authority had previously received an Authorizing Resolution, no new Authorizing Resolution shall be required. The Governing Body of the City shall not be required to reappoint the directors of any such authority and the directors then in office shall continue in office and their terms of office shall expire at the same time such terms would have expired prior to the passage of this Act. The Downtown Development Area of such authorities shall be the areas specified in the Acts described in the first sentence of this paragraph.

All bonds, leases, mortgages, indentures, inducement agreements, preliminary bond resolutions and other instruments, contracts, documents and agreements issued, entered into, authorized or approved

by such authorities are hereby validated, ratified and approved ab initio.

**Section 25.** Severability. In the event any section, sentence, clause or portion of this Act should be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any of the remaining sections, sentences, clauses or portions of this Act, which shall continue effective.

**Section 26.** Effective Date of Act. This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-684

H. 1056—Reps. McMillan, and Penry

### AN ACT

To amend Act No. 92, Acts of Alabama 1956, providing for the "Baldwin County Law Library Fund" so as to redesignate it the "Baldwin County Law Library and Judicial Administration Fund"; to provide that the fund may be used, in addition to purchasing law books, periodicals and equipment for the library, for the purposes of furthering the effective administration of justice as provided herein; to designate eighty percent (80%) of said fund for the purposes of maintaining the county law library and twenty percent (20%) for the purposes of judicial administration; and to provide an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Act No. 92, Acts of Alabama 1956, is hereby amended to read as follows:

"Section 1. The Baldwin County Commission, the governing body of Baldwin County, Alabama, is hereby fully authorized to establish and maintain a public law library in the courthouse of said county and to accomplish such purpose may, from time to time, expend such public funds of said county as are not required by law to be expended for any other purpose or purposes; to provide suitable quarters or space for such library; to provide furniture, fixtures and equipment therefor; to keep the same in a good state of maintenance and repair; and from time to time to enlarge, expand and improve such library facilities and equipment and from time to time to provide such books, reports, periodicals and other equipment for said library as are not provided therefor out of the proceeds of the special fund created by this act or otherwise, which expenditures shall from time to time be made on warrants drawn in the usual manner upon the

county, payable out of the appropriate fund or funds, as further specifically provided in this act.

“Section 2. In order to provide a special fund for the creation and maintenance of said library and for the purposes of judicial administration as further specified in this act, there shall be taxed as costs the sum of \$1.50 in each civil or quasi civil action at law, suit in equity, criminal case, quasi criminal case, proceeding on a forfeited bond bail or a proceeding on a forfeited bond given in connection with an appeal from a judgment of conviction in any district or municipal court to the Circuit Court hereinafter filed in, arising in or brought by appeal, certiorari or otherwise to the Circuit Court of Baldwin County, Alabama, which costs shall be collected as other costs in such cases are collected by the Clerk of said court or the Register thereof, as the case may be, and shall be paid to the said Baldwin County Commission.

“Section 3. There also shall be taxed as costs the sum of \$1.50 in each criminal case hereafter filed in the District Court of Baldwin County, Alabama, which costs shall be collected as other costs in such cases are collected, and when collected by the Clerk of said court shall be paid to the Baldwin County Commission.

“Section 4. The sums to be paid to the said Baldwin County Commission, as herein provided, shall be kept in a special fund designated as the “Baldwin County Law Library and Judicial Administration Fund” and shall be expended by the Presiding Circuit Judge of the Circuit Court of Baldwin County, Alabama, to create, establish and maintain the said law library and to provide for the more effective administration of justice, including but not limited to: paying the costs of securing the advice and attendance of witnesses; registration fees and other actual expenses incurred in attending seminars, institutes, conferences and other meetings in connection with continuing legal and judicial education, membership fees or dues in legal and judicial organizations; and such other actual and necessary expenses incurred by the judges of said circuit in promoting legal and judicial competency. The said Presiding Circuit Judge shall draw warrants on the county for expenditures by him, indicating on the warrants the funds against which the warrants are to be drawn. Eighty percent of the said fund shall be used primarily to purchase such books, periodicals and other library fixtures and equipment as, in the opinion of the said Presiding Circuit Judge, may be advisable, but to the extent not so used such funds may be otherwise expended for the maintenance of the library. Twenty percent of said fund shall be used for the purposes of judicial administration as provided in this section. The management of the said law library is and shall be vested in the Presiding Judge of the Circuit Court of Baldwin

County, Alabama, and all books, periodicals, reports and other property purchased with the funds produced by this act shall be the property of Baldwin County, Alabama; provided, however, that said Judge may from time to time sell or exchange such books, reports, periodicals and personal property as may be necessary to keep the said library up to date and apply the proceeds of the sale thereof or the value thereof upon the purchase of other books, reports, periodicals and personal property for use in said library. The Presiding Judge of the Circuit Court may accept any gift or loan of any books, reports, periodicals and other property for public use in said library upon such terms and conditions as may be stipulated by the donor or lender thereof and as may be agreeable to the said judge. The said Presiding Circuit Judge may designate the Clerk of the Circuit Court, Register or any other suitable person to operate or assist in the operation of the said library. The funds established by the provisions of this act shall be audited in the same manner as other county funds are audited.

“Section 5. The said items of cost referred to above shall be designated in the respective courts as “Law Library and Judicial Administration Fee” and when any part of the costs in such a case or proceeding shall have been paid, the amount necessary for the payment of said fee shall be applied thereto before applying any of the amount paid as costs to any other item of cost. On or before the tenth day of each month the Clerk or Register of the respective courts shall pay to the said Baldwin County Commission the amounts collected for said law library and judicial administration fees previous to the first day of the month.”

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-685

H. 1062—Rep. Britnell

## AN ACT

Relating to Franklin County; providing for the disposition of the revenue resulting from certain fees assessed on transactions performed by the tax assessor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In order that Franklin County might be able to purchase and maintain a unified and modern computerized system for county records, the proceeds from that fee prescribed in Section 40-4-5 of the Code of Alabama 1975, to be limited to \$1.35 per transaction, on transactions performed by the county tax assessor shall be distributed annually as follows:

(a) The first 35 cents of such proceeds shall go into the county general fund for the needs as determined by the County Commission;

(b) \$6,000.00 of the remaining proceeds shall go to the tax assessor as an expense allowance for performing the duties of such office; to be paid in equal monthly installments;

(c) The next \$9,000.00 of such proceeds shall be used to establish, staff and maintain a legislative office in Franklin County;

(d) The next \$12,000.00 of such proceeds shall be used for the upkeep and maintenance of said computer system, and thereafter.

(e) The remainder of any and all such funds shall remain in the county general fund.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective on October 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-686

H. 999—Rep. Turner

## AN ACT

Relating to Mobile County; to provide further for the disposition and use of the funds received by Mobile County under the provisions of Title 40, Chapter 20, Article 1, Code of Alabama 1975, as amended, providing for the levy of a privilege tax on the production of oil and gas; and to specifically repeal Act No. 870, H. 1517, Regular Session 1975 (Acts 1975, p. 1714), providing further for the disposition and use of a certain portion of the funds received by Mobile County from an oil and gas severance tax, and all other laws or parts of laws in conflict herewith.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The County Commission of Mobile County shall distribute and pay all funds received by Mobile County under the

provisions of Section 40-20-8(a), Code of Alabama 1975, as amended, relating to the levy and distribution of a privilege tax on the production of oil and gas from offshore, as follows:

(a) Thirty-five percent (35%) to the County Commission of Mobile County to be used for county purposes.

(b) Thirty-percent (30%) to the Mobile County Indigent Care Board which shall be used for the medical care and treatment of medically indigent citizens of the county and under the provisions of Act No. 83-501, Regular Session 1983, (Acts 1983, p. 704).

(c) Thirty-five percent (35%) to the Mobile County Board of Education which shall be placed in a special account by the said Board for the purpose of capital outlay projects within the Mobile County School System.

**Section 2.** The County Commission of Mobile County shall distribute and pay in twelve monthly installments all funds received by Mobile County under the provisions of Section 40-20-8, Code of Alabama, as amended, and which are not otherwise provided for under the provisions of Section 1 of this act, as follows:

(a) Forty-two percent (42%) to the County Commission of Mobile County to be used for county purposes:

(b) Forty-two percent (42%) to the Mobile County Indigent Care Board which shall be used for the medical care and treatment of medically indigent citizens of the county and under the provisions of Act No. 83-501, Regular Session 1983 (Acts 1983, p. 704);

(c) Eight percent (8%) to the Mobile County Board of Health to be used for public health purposes within Mobile County.

(d) Eight percent (8%) to the Mobile County Board of Education to be used for public school purposes within Mobile County.

**Section 3.** Act No. 870, H. 1517, Regular Session 1975 (Acts 1975, p. 1714), and all other laws or parts of laws in conflict with the provisions of this act are hereby repealed.

**Section 4.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This act shall become effective on the first day of the month following its passage and approval by the Governor or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-687

H. 6—Reps. Smith, Mitchell, Butler, Hall, Coleman, Grouby, Hettinger, White (F), Brakefield, Trammell, Beers, Britnell, Bachus, Tanner, White (L), Rice, Burke, Richardson, Flowers, Blake, Gray, McKee, Mikell, Starr, Mathis, Gaston, Blakeney, Holley, Moore, Laird, Johnson (RG), Venable, Adams, Parker, Lauderdale, Carter, Warren, Turnham, Faulk, Zoghby, Preuitt, Carothers, Albright, Crow, Turner, Penry, McMillan, Seibels, White (G), Poole, Johnson (Roy), Payne, Hammett, Hooper, Pratt, Clark (D), Rains, Fuller, Starkey, and Cosby

### AN ACT

To raise the legal age for a person to purchase, consume, possess, or to transport alcoholic beverages, to provide criminal penalties, and to provide that juvenile offenders shall be incarcerated, if so sentenced, in juvenile detention facilities, and to exempt persons 19 years of age or older on the effective date of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Notwithstanding the provisions of Section 26-1-2, Code of Alabama 1975, it shall be unlawful for a person less than 21 years of age to purchase, consume, possess or to transport any alcohol, liquor or malt or brewed beverages within the State of Alabama, except as provided by Section 28-1-3, Code of Alabama 1975, for certain eligible persons who are authorized to make limited purchases from military package or liquor stores. Notwithstanding any other provision of this act, it shall not be unlawful for any Alcoholic Beverage Control Board licensee to employ any person under the legal drinking age to work, provided there is an adult in attendance at all times. It shall be permissible to employ persons in an on-premise licensed establishment under legal drinking age such as professional entertainers, show people, musicians, cashiers, hostesses, ushers, waiters and waitresses, bus boys or girls, and the like, provided they do not serve, dispense or consume alcoholic beverages and there is an adult in attendance at all times.



Whoever violates this section shall be fined not less than \$25.00 nor more than \$100.00, or imprisoned in the county jail for not more than thirty days or both; provided further, that juvenile offenders shall not be held in the county jail, but shall be held, either before or after sentencing, in a juvenile detention facility pursuant to the guidelines of the department of youth services, which shall be separate and apart from adult offenders.

Persons 19 years of age or older prior to October 1, 1985, are hereby expressly exempt from the provisions of this act.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, and shall remain in effect only so long as Section 6 of Public Law 98-363, 98th Congress, July 17, 1984, 98th Stat. 437 et seq., 23 USC Section 158, shall be in effect.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-688

H. 606—Rep. Blake

### AN ACT

To amend Section 37-3-4, Code of Alabama 1975, relating to the exemption of certain motor vehicle carriers from regulation by the Public Service Commission, so as to include wrecker services within the exemptions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 37-3-4, Code of Alabama 1975, is hereby amended to read as follows:

“§37-3-4.

“(a) This chapter shall not be construed to apply to:

“(1)a. School buses or other motor vehicles which are owned by county boards of education or under contract with county boards of education, regardless of whether or not such school buses and other motor vehicles are being used exclusively for the transportation of school children and school teachers to and from school and provided

such school buses and other motor vehicles do not take on passengers for fare on a certificated route.

“b. Motor vehicles for hire while operating wholly within the limits of a city or incorporated town or within the police jurisdiction thereof, or between two or more incorporated towns or cities whose city limits join or are contiguous or whose police jurisdictions join or are contiguous.

“c. Motor vehicles while used in the transportation of property when the owner of the vehicle is legally and regularly engaged in the business of selling such property and is the owner and has the legal title to the motor vehicle involved, also motor vehicles if engaged in hauling milk, livestock, coal, coke, logs, lumber, poles, pulpwood, cotton in bales, cottonseed, fertilizer, peanuts, potatoes or any other agricultural commodity of any kind (but not manufactured products thereof); or motor vehicles hauling road materials and paid by the state of Alabama, or paid by any county or other political subdivision thereof, or paid by any contractor performing work for the state of Alabama, or any county or other political subdivision thereof, for a distance not exceeding 50 miles; and motor vehicles used exclusively in the transportation of milk in thermal or artificially cooled bodies or containers; except, that this subsection shall not be construed to exempt from the provisions of chapter 19 of Title 40 any motor carrier who operates under certificate or permit granted under the authority of the Alabama public service commission. All motor vehicles hauling property for hire and which are in any respect exempt under paragraph a. of this subdivision (1) must, before transporting any exempt property, secure a permit from the department of revenue of the state of Alabama, which permit may be furnished without cost upon proper application where there are no legal objections thereto; and such permit shall be issued under reasonable rules and regulations promulgated by the department of revenue of the state of Alabama.

“(2) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons.

“(3) Motor vehicles owned and operated by the United States, this state or any county, municipality or other political subdivision of this state.

“(4) Motor vehicles controlled and operated by any farmer while used in the transportation of agricultural commodities and products thereof, whether for himself or another farmer, or in the transportation of supplies to or from the farm.

“(5) Motor vehicles controlled and operated by a bona fide cooperative association as defined by the General Agricultural Marketing Act, approved June 15, 1929, as amended, or organized or

existing under any state cooperative marketing act, while used exclusively in the conduct of the business of such association.

“(6) Motor vehicles while used exclusively in the transportation of newspapers and magazines and United States mail.

“(7) Motor vehicles owned by a farmer used occasionally in transporting household goods and furniture.

“(8) Motor vehicles, except taxicabs or airport limousines, used primarily for hauling 14 or fewer passengers to and from their regular places of employment, including the organizers, sponsors or promoters of such vehicles where the operator of the vehicle is not otherwise engaged in transportation for hire and is engaged in a not-for-profit operation; provided, that the Alabama public service commission may require the operators of such motor vehicles to register with the public service commission, and the public service commission may inspect these motor vehicles as it deems necessary for purposes of safety.

“(9) Church owned buses used for carrying passengers to and from religious services, regardless of size and capacity.

“(b) In addition to all other exclusions and exemptions from the application of this chapter, there are hereby exempted from the operation and provisions of this chapter ambulances, hearses and wrecker services wherever used or operated in this state.

“(c) No motor carrier who transports property exclusively in open top dump truck and trailers without pneumatic loading and unloading devices shall be subject to any provisions of this chapter which require the filing of tariffs, schedules of charges or contracts or the establishment or participation in any published rates. Nothing contained herein, however, shall exempt any motor carrier providing service in such vehicles from complying with all other provisions of this chapter.

“Any carriage heretofore or hereafter conducted by motor carriers exclusively in such vehicles pursuant to an otherwise lawful agreement shall not be declared invalid because it was not in compliance with any tariff, schedule of rates or contracts required by this chapter and no penalties, fines, assessments, or recovery of charges in excess of or below any prescribed rates may be levied against or recovered by any shipper or motor carrier as a result of said carriage.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-689

H. 146—Rep. Biddle

## AN ACT

To amend §41-16-21 of the Code of Alabama 1975 to exempt from the provisions of the law on competitive bidding on public contracts purchases by any hospital or other medical facility operated by any state department, except the Department of Mental Health, board, bureau, commission, committee, institution, corporation, authority or office.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** §41-16-21 of the Code of Alabama 1975 is hereby amended to read as follows:

§41-16-21.

(a) Competitive bids shall not be required for utility services where no competition exists or where rates are fixed by law or ordinance, and the competitive bidding requirements of this article shall not apply to: the purchase of insurance by the state; contracts for the securing of services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part; contracts of employment in the regular civil service of the state; tourist advertising by the state bureau of publicity and information authorized under Section 41-7-4; purchases of alcoholic beverages only by the alcoholic beverage control board; purchases for any hospital or campus medical facility which has a total licensed bed capacity no less than 800 beds at the time of passage of this act, operated by any state department, except the Department of Mental Health, board, bureau, commission, committee, institution, upon approval of the governing board of said institution, corporation, authority or office; purchases by the state highway department of local materials from any property owners in the vicinity of a project on which such local materials shall be used or purchases and contracts for repair of equipment used in the construction and maintenance of highways by the state highway department; purchases of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for Deaf and Blind in accordance with sections 21-2-1 through 21-2-4; purchases of maps or photographs purchased from any federal agency; purchases of manuscripts, maps, books, pamphlets or periodicals purchased for the use of any state library or any other library in the state supported in whole or in part by state funds; contractual services and purchases of commodities for which there is only one vendor or supplier; contractual services and

purchases of personal property, which by their very nature are impossible of award by competitive bidding; barter transactions by the board of corrections; and purchases, contracts or repairs by the state docks department when it is deemed by the director of state docks and the secretary-treasurer of the state docks department that such purchases, contracts or repairs are impractical of award by competitive bidding due to the exigencies of time or interference with the flow of commerce; provided, that the director of state and the secretary-treasurer of the state docks department shall place a sworn statement in writing in the permanent file or records setting out the emergency relied upon and the necessity for negotiation instead of proceeding by competitive bidding in said instance, and such sworn statement shall be open to public inspection. A copy of such sworn statement shall be furnished forthwith to the chief examiner of public accounts.

(b) All educational and eleemosynary institutions governed by the board of trustees or other similar governing body and the state docks department shall be exempt from the provisions of this article which relate to the powers, duties, authority, restrictions and limitations conferred or imposed upon the department of finance, division of purchases and stores; provided, however, that the said educational and eleemosynary institutions, the state docks department and the other state agencies exempted from the provisions of this article or any party hereof shall let by free and open competitive bidding on sealed bids to the lowest responsible bidder all contracts of whatever nature for labor, services or work or for the purchase or lease of materials, equipment, supplies or other personal property involving \$2,000.00 or more. The said institutions, departments and agencies shall establish and maintain such purchasing facilities as may be necessary to carry out the intent and purpose of this article by complying with the requirements for competitive bidding in the operation and management of each such institution, department or agency.

(c) Contracts entered into in violation of this article shall be void.

(d) Nothing in this section shall be construed as repealing sections 9-2-106 and 9-2-107.

**Section 2.** The provisions of this act are severable. If any part of this act is declared unconstitutional such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are repealed.

**Section 4.** This act shall become effective immediately upon its passage by the Legislature and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-690

H. 3—Rep. Bugg

## AN ACT

Relating to Etowah County; to provide further for the election of the members of the county board of education; and to provide a referendum and to make effective upon the approval of certain qualified electors November 1986 general election.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The several members of the Etowah County board of education shall hereafter be elected by only those qualified electors in the county who are served by the Etowah County Board of Education.

**Section 2.** Nothing in this Act shall affect the unexpired term of any present member of the Etowah County board of education.

**Section 3.** The provisions of this Act are supplemental and shall be construed in pari materia with all other laws relating to the Etowah County board of education; however, those laws or parts of laws in direct conflict or inconsistent herewith are hereby repealed.

**Section 4.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This Act shall become effective upon the approval of a referendum by the qualified electors in Attalla and Gadsden which shall be called by the county governing body and on the ballot November 1986 general election; such election shall be paid for by county funds. Such election shall be conducted as are all other county elections.

**Section 6.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law except as otherwise herein provided.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-691

H. 600—Reps. Turnham, and Cosby

### AN ACT

To create the Alabama Manufactured Housing Commission; to express legislative intent to relieve the fire marshal division of the insurance department of certain duties; to provide for the functions, duties, powers, membership, compensation, terms of office, meetings, and other business of the commission; to create a special revolving fund for the commission; to authorize the commission to promulgate rules and regulations and to enter contracts and perform specific duties relative to the standards for the construction of manufactured housing and buildings; and to provide that the functions, powers, authority and duties provided by law, specifically but not limited to Sections 24-5-1 through 24-5-14, 25-5-30 through 25-5-34; 24-4A-1 through 24-4A-7 and Title 24, Chapter 4, all of the Code of Alabama 1975, and all books, records, supplies, pursuant to and under the authority of the aforesaid code sections through legislative budgetary authority and duties provided by law, specifically, but not limited to: Sections 24-5-1 through 24-5-14; 24-5-30 through 24-5-34; 24-4A-1 through 24-4A-7 and Title 24, Chapter 4, all of the Code of Alabama 1975, and all books, records, supplies, equipment, documents, files, papers, materials, and personnel of the fire marshal's division subject to and authorized by, or under these various code sections and related thereto shall be transferred to the commission. To provide that funds in the amount of \$110,364.00 appropriated to the fire marshal's division for fiscal year 1985-1986 for those functions and purposes enumerated in the above code sections shall be transferred and appropriated to the commission. Also transferred and appropriated to the commission are all funds received from contracts performed by the commission on or after October 1, 1985, pursuant to Section 24-5-13.1, Code of Alabama 1975, pertaining to mobile homes, manufactured housing and manufactured buildings.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is the express intent of this act to give administrative relief to the fire marshal division of the insurance department in the supervision of any current or future federal and state statutes and codes relating to manufactured and modular housing and buildings. For such purposes, the Alabama Manufactured Housing Commission is created to perform such administrative functions.

**Section 2.** The Alabama Manufactured Housing Commission, hereinafter referred to as "the commission," is hereby created and shall function as the principal executive branch agency with powers to provide for a comprehensive manufactured housing and building program with respect to construction, transportation, site location

or manufacturing standards for such structures. The commission shall have such other powers and duties as are hereinafter provided.

**Section 3.** The commission shall be composed of six (6) members, five of which shall be appointed by the governor as follows:

(a) From a list of six (6) nominees submitted by the Alabama Housing Institute, the governor shall select three (3) members. One of whom shall serve a 3-year term of office and two of whom shall serve 4-year terms of office each, thereafter all future nominees shall be submitted as herein provided and all successors shall serve terms of office of 4 years each. Of the three persons selected, one shall be a representative of the modular housing industry, one shall be a representative of the manufactured building industry, and one shall be a representative of the manufactured housing/mobile home industry. No employee of the Alabama Manufactured Housing Institute shall serve on the Alabama Manufactured Housing Commission as either a non-voting or voting member and they shall not be responsible for keeping the records of the Commission.

(b) The governor shall appoint from the general public, one (1) member who is a consumer representative whose initial term of office shall be one year and successors shall serve a 4-year term of office.

(c) The governor shall appoint one (1) member who is a representative from any local or state government agency for an initial term of office of 2 years and successors shall serve a 4-year term of office.

Appointed members shall be eligible for reappointment. Any vacancy shall be filled by the governor in the same manner as the original appointments were made for unexpired term. The commission shall select a person who shall serve as the sixth member and who shall be a non-voting member and shall serve permanently as the secretary of the commission, and shall keep all notes and minutes of the meetings. The appointed members shall select from among their number a chairman each three (3) years, who shall preside over the meetings of the commission.

All members, including the secretary, shall be paid \$100.00 for each day the commission meets and shall receive the same per diem and allowance as is paid state employees for meetings of the commission. The commission shall meet upon the call of its chairman monthly, or twelve (12) times per year.

**Section 4.** (a) The commission shall be the principal staff agency of the executive branch to provide, with the cooperation of other departments of state governmental units, a comprehensive housing program and procedures which include the relevance for housing programs administered by the state and the governmental structures



required to put such programs into effect. The commission shall perform all the duties and exercise all the powers and authority relative to modular housing, manufactured buildings, manufactured housing and mobile homes, heretofore vested in the fire marshal's division within the state department of insurance, and other implied powers. All the functions, powers, authority and duties provided by law, specifically, but not limited to: Sections 24-5-1 through 24-5-14; 24-5-30 through 24-5-34; 24-4A-1 through 24-4A-7 and Title 24, Chapter 4, all of the Code of Alabama 1975, all books, records, supplies, pursuant to and under the authority of the aforesaid code sections through legislative budgetary authority and duties provided by law, specifically, but not limited to: Sections 24-5-1 through 24-5-14; 24-5-30 through 24-5-34; 24-4A-1 through 24-4A-7 and Title 24, Chapter 4, all of the Code of Alabama 1975, and all books, records, supplies, equipment, documents, files, papers, materials, and personnel of the fire marshal's division subject to and authorized by, or under these various code sections and related thereto are also hereby transferred to the commission. Funds in the amount of \$110,364.00 appropriated to the fire marshal's division for fiscal year 1985-1986 for those functions and purposes enumerated in the above code sections shall be transferred and appropriated to the commission. Also transferred and appropriated to the commission are all funds received from contracts performed by the commission on or after October 1, 1985, pursuant to Section 24-5-13.1, Code of Alabama 1975, pertaining to mobile homes, manufactured housing and manufactured buildings. The Housing Coordinator shall serve as administrator of the commission, and along with all other employees to be transferred, shall be transferred without any impairment to his or their present merit system status. All employees of the said commission shall retain their status as state merit system employees and enjoy the benefit thereof.

(b) There is hereby established a revolving fund in the state treasury to be known as the "Alabama Manufactured Housing Commission Fund". Any proceeds remaining at the end of each fiscal year shall not revert to the state general fund, but shall carry forward to the succeeding fiscal years for the use of the commission. All proceeds from federal grants, loans, funds, fees, and state or federal appropriations received or collected by the commission heretofore or hereafter is so appropriated and to be deposited in this account and is to be used only for and to the enurement of this commission.

(c) The commission is authorized to promulgate such rules and regulations not inconsistent with this act as are implied or stated as are necessary to carry out the provisions of this act, pertaining specifically to the manufacture, transportation, or site location of said housing and buildings and building programs in the State of Alabama. The commission is further authorized to promulgate such

rules and regulations as it may deem necessary to meet the requirements of the Department of Housing and Urban Development, the National Fire Protection Association or any other recognized standards.

(d) The commission, by rules or regulations, shall establish a schedule of fees to pay the cost incurred by the said commission for the work related to the administration and enforcement of this act. All fees, funds, and monies received by the commission is hereby appropriated to the commission and to be used only to the enrichment of the said commission.

(e) The commission may enter into any contracts with public or private agencies.

(f) The commission is authorized to hire or fire an administrator and all other employees under the state merit system law. The commission is authorized to set qualifications for employees and compensation through the merit system, for the necessary employees to carry out the provisions of this act.

(g) The commission is authorized to: Make comprehensive and detailed plans for combating the shortage of safe and sanitary housing in Alabama; apply for and accept advances, loans, grants, contributions, and any other forms of assistance from the federal government, state or other public body, or from any other source, public or private; enter into and carry out contracts or agreements in connection with programs funded by the aforesaid sources to serve a public purpose and benefit the citizens of the State of Alabama; and prepare proper legislation to administer the programs.

(h) This act shall not prevent an agency or department of state government from administering the program for which they are responsible.

**Section 5.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective October 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-692

H. 707—Rep. Beasley

## AN ACT

To alter or rearrange the boundary lines of the Town of Webb, Houston County, Alabama, so as to include within the corporate limits of said Town all territory now within such corporate limits and also certain other territory contiguous thereto, in Houston County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the Town of Webb, Houston County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the Town of Webb and in addition thereto the following described territory, to-wit:

PROPOSED NEW CITY LIMITS  
FOR  
WEBB, ALABAMA

From the intersection of the existing north City Limits and a point 500 feet east of west line of Section 31, T4N, R28E as the point of beginning run north and parallel to said west line to a point on the north line of the S 1/2 of said Section 30; thence west along the 1/2 section line to a point on the west section line of Section 25, T4N, R27E; thence south along the section line to the 1/2 section line of Section 36; thence west along said 1/2 section line of Section 35 to the intersection of the centerline of Omusee Creek; thence southerly along said centerline to the north line of Section 3; thence west to the 1/2 section line of Section 3; thence south to the 1/2 section line of Section 3; thence east to the centerline of Omusee Creek; thence southerly along said centerline to the intersection of Crawford Creek; thence run southeasterly along the centerline of said Crawford Creek to a point 500 feet south of Houston County Highway No. 44 and said point being in the NE 1/4 of the NW 1/4 of Section 24, T3N, R27E; thence run northeasterly and parallel to said Highway No. 44 to a point 500 feet west of Houston County Highway No. 57; thence run northerly and parallel to said Highway No. 57 to the existing south corporate boundary of Webb; thence westerly along said boundary to the intersection of the west corporate boundary of Webb; thence northerly along said west boundary to the intersection of the north corporate boundary of Webb; thence run easterly along said north boundary a distance of 3500 feet, more or less to the point of beginning and containing 13,815 acres, more or less.

Less and except the following described property belonging to Dorsey L. Haynes and wife Fairy M. Haynes:

The NE 1/4 of NW 1/4 and the N 1/2 of SE 1/4 of NW 1/4 and NW 1/4 of NE 1/4 of Sec. 11, T3N, R27E, LESS AND EXCEPT one tract or parcel of land in Houston County, Alabama and being more particularly described as follows: Beginning at the northwest corner of the NE 1/4 of the NW 1/4 of Section 11, T3N, R27E and run thence S86°-38'-40" E along the north line of said forty 280.84 feet to an iron pipe; thence S1°-46'-42" W, 1414.96 feet to the North R/W of Old Webb Road (60' R/W); thence continue S1°-46'-42" W, 60.38 feet to the South R/W of said road; thence continue S1°-46'-42" W, 690.55 feet to an old fence line; thence N86°-20'-08" W along said fence 280.71 feet to an old fence and the West line of the SE 1/4 of the NW 1/4 of the above mentioned section; thence N1°-33'-14" E along said fence and the extension thereof 743.16 feet to the center of said Old Webb Road; thence N1°-53'-18" E along an old fence 1421.23 feet to the Point of Beginning. Said property being a part of the E 1/2 of the NW 1/4 of the above mentioned section and containing 14 acres, subject to easements or rights-of-way for roads or power easements.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-693

H. 771—Reps. Penry, McMillan,  
Harper, Kvalheim,  
Kennedy,  
Buskey (James),  
Zoghby, and Box

### AN ACT

To regulate transient merchants, provide for licensing of said merchants and provide for penalties for violations.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** As used in this act, the following terms shall have the following meanings ascribed to them, unless the context clearly indicates otherwise:

(1) "Transient merchant" means any person that transacts transient business in this state either in one locality or by traveling from

place to place in this state. The term includes a merchant who for the purpose of carrying on such business, hires, leases, uses, or occupies any building, structure, motor vehicle, railroad car, or real property.

(2) "Transient business" means any business conducted for the sale of merchandise or services that is carried on in any building, structure, motor vehicle, railroad car, or real property for a period of less than six months in each year.

(3) "Person" means an individual, corporation, association, partnership or other entity.

**Section 2.** (a) The provisions of this act shall not apply to:

(1) Civic and non-profit organizations, wholesale sales to retail merchants by commercial travelers or agents selling in the usual course of business;

(2) Wholesale trade shows or conventions;

(3) sales of goods, wares, services or merchandise by sample catalogue or brochure for future delivery;

(4) fairs and convention center activities conducted primarily for amusement or entertainment;

(5) any general sale, fair, auction, or bazaar sponsored by a church or religious organization;

(6) garage sales held on premises devoted to residential use;

(7) sales of crafts or items made by hand or sold or offered for sale by the person making the crafts or items;

(8) duly licensed flea markets operating from a fixed location;

(9) sales of agricultural products, except nursery products and foliage plants; or

(10) sample sales made by a seller at residential premises under an invitation issued by the owner or legal occupant of the premises.

(b) A transient merchant not otherwise exempted from this act is not exempted from this act because of a temporary association with a local dealer, auctioneer, trader, contractor or merchant, or by conducting the transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

**Section 3.** A transient merchant may not transact business in any county in this state unless the merchant, and the owner of the merchandise or provider of the services to be offered, if the merchandise is not owned or the services are not provided by the

merchant, has secured a license in accordance with this act and otherwise complied with this act.

**Section 4.** (a) A transient merchant who desires to transact business in a county in this state must apply for and obtain a license in each county in which the merchant desires to transact business. The license application shall be filed with the probate judge and must include:

(1) the name and permanent address of the transient merchant making the application;

(2) a statement describing the kind of business to be conducted, the length of time for which the applicant desires to transact the business, and the proposed location of the business;

(3) the name and permanent address of the applicant's registered agent or office; and

(4) proof that the applicant has acquired all other required city, county and state permits and licenses.

(b) If the applicant is an association or a corporation, the applicant must also include the names and addresses of the members of the association or the officers of the corporation. If the applicant is a corporation, the application must state the date of incorporation and the state in which it was incorporated. If the applicant is a corporation organized under the laws of another state, the applicant must state the date on which the corporation qualified to transact business as a foreign corporation in this state.

**Section 5.** The tax assessor in each county shall prepare appropriate forms for license applications, license certificates and license renewals issued under this act.

**Section 6.** (a) Each applicant for a transient merchant license shall designate a registered agent on the license application. The registered agent must be a resident of the county and shall be the agent on whom any process, notice, or demand required or permitted by law to be served on the licensee may be served. The registered agent must agree in writing to act as the agent. The license applicant shall file a copy of the agreement with the license application.

(b) The probate judge of each county shall maintain an alphabetical list of all transient merchants in the county and the names and addresses of their registered agents.

(c) If a transient merchant who does business in a county fails to have or to maintain a registered agent in that county, or if the designated registered agent cannot be found at the stated permanent address, the probate judge is the agent of the transient merchant for

service of process, notices, or demands. Service on the probate judge is made by delivering to his office duplicate copies of the process, notice or demand. If such a process, notice or demand is served on the probate judge, the probate judge shall immediately forward one copy by registered or certified mail to the permanent address of the transient merchant. This section does not limit or otherwise affect the right of any person to serve a process, notice or demand in any other manner authorized by law.

**Section 7.**(a) Each applicant for a transient merchant license must include a license fee of \$250 with the application, to be deposited in the county treasury that issues the license. The license applicant must also execute a cash bond or a surety bond issued by a corporate surety authorized to do business in this state in an amount that is the lesser of \$2,000 or five percent of the wholesale value of any merchandise or services to be offered for sale. The surety bond must be issued in favor of the state and must be conditioned that the applicant will pay all taxes due from the applicant to the state or to a political subdivision of the state, any fines assessed against the applicant or the applicant's agents or employees for a violation of this act, and any judgment rendered against the applicant or the applicant's agents or employees in a cause of action commenced by a purchaser of merchandise or services not later than one year after the date the merchandise or services are sold by the applicant.

(b) The transient merchant must maintain the bond during the period that the merchant conducts business in the county and for a one-year period after the termination of the business. After the transient merchant furnishes satisfactory proof to the probate judge that the merchant has satisfied all claims of purchasers of merchandise from or services offered by the merchant, and that all state and local sales taxes and other applicable taxes have been paid, the bond shall be released.

**Section 8.** (a) The probate judge shall issue a transient merchant license under this act only if all requirements of this act have been met. The license is not transferable, and is valid only within the territorial limits of the issuing county. A license expires 90 days after the day of issuance.

(b) A license may be renewed on payment of a \$25 renewal fee and filing for renewal with the probate judge before the expiration of the current license.

**Section 9.** Any person who knowingly or intentionally operates a transient business without a valid license as provided by this act, or who knowingly or intentionally advertises, offers for sale, or sells any merchandise or services in violation of this act, shall, upon conviction, be guilty of a Class A misdemeanor.

**Section 10.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 11.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 12.** The provisions of this act shall become effective 60 days after its passage and approval by the Governor, or upon is otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-694

H. 954—Reps. Buskey (James),  
Gaston, Clark (W),  
Box, and Kennedy

#### AN ACT

To amend Act No. 81-446, H. 679, 1981 Regular Session, entitled, "An Act Relating to Mobile County; to provide further for the compensation of election employees and officers," so as to provide further for said compensation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act No. 81-446, H. 679, 1981 Regular Session, is hereby amended to read as follows:

"Section 1. In Mobile County, the compensation of the election officers holding general, special, primary and municipal elections shall be sixty-five dollars (\$65.00) per day for inspectors, fifty-five dollars (\$55.00) for Chief Clerks or Deputy Inspectors, and fifty dollars (\$50.00) per day for the other election officers. The county treasury and, when appropriate, the treasuries of the various municipalities within the county shall pay such amounts necessary, when combined with any amount payable by the state, which will total the amounts hereinabove provided. The amounts herein provided shall constitute the total compensation payable to such officers, in lieu of any other provided by law. The returning officer shall be entitled to mileage allowance according to law in addition to the compensation herein provided."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.



Act No. 85-695

H. 1059—Reps. Butler, Hettinger, Grayson

## AN ACT

Relating to Madison County, to further regulate the compensation of the board of registrars, by amending Act No. 948, H. 2007, Regular Session 1973, (Acts 1973, p. 1458).

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act. No. 948, H. 2007, Regular Session 1973, (Acts 1973, p.1458), is hereby amended to read as follows:

“Section 1. In addition to the amount paid by the state to members of the Madison County board of registrars, the county commission shall be authorized to provide for an additional amount to be paid by the county general fund. Such additional amount shall be within the discretion of the commission, and the commission shall adopt a formal resolution each time such additional county supplement is changed.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-696

H. 602—Rep. Harvey

## AN ACT

Relating to additional expenses of the Alabama Forestry Commission; to make a supplemental appropriation to the Alabama Forestry Commission for the fiscal year ending September 30, 1986, for salaries, operating expenses and equipment purchases of the Commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** For the fiscal year ending September 30, 1986, there is hereby appropriated to the Alabama Forestry Commission from the State General Fund the sum of one million eight hundred thousand dollars (\$1,800,000), which said sum shall be used and expended as set out below. Of said appropriation the sum of one million dollars (\$1,000,000) shall be used for salaries. In addition, the sum of five hundred thousand dollars (\$500,000) shall be used for operating expenses and the sum of three hundred thousand dollars (\$300,000) shall be used for equipment purchases of said Commission.

**Section 2.** The appropriation herein made shall be absolute and in addition to any other appropriations made to the Alabama Forestry Commission.

**Section 3.** This act shall become effective on October 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-697

H. 95—Reps. Clark (J), Marietta,  
Johnson (Roy), Campbell,  
and White (L)

### AN ACT

To amend Sections 34-9-1, 34-9-9, 34-9-11, 34-9-17, 34-9-18, 34-9-19, 34-9-22, 34-9-25, 34-9-26, 34-9-27, 34-9-29, 34-9-41, and 34-9-43 of the Code of Alabama 1975, relating to dentists and dental hygienists, so as to regulate further the practice of dentistry and dental hygiene; to regulate further the Board of Dental Examiners; to regulate the administration of anesthesia by dentists; and to provide sanctions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 34-9-1, 34-9-9, 34-9-11, 34-9-17, 34-9-18, 34-9-19, 34-9-22, 34-9-25, 34-9-26, 34-9-27, 34-9-29, 34-9-41 and 34-9-43 of the Code of Alabama 1975, are hereby amended to read as follows:

“§34-9-1.

“For the purposes of this chapter, the following terms shall have the respective meanings ascribed by this section:

“(1) LICENSE. The grant of authority by the board to a person to engage in the practice of dentistry or dental hygiene.

“(2) LICENSE CERTIFICATE. The documentary evidence under seal of the board that said board has granted authority to the licensee to practice dentistry or dental hygiene in this state.

“(3) ANNUAL REGISTRATION. The documentary evidence that the board has renewed the authority of the licensee to practice dentistry or dental hygiene in this state.

“(4) BOARD. The board of dental examiners of Alabama.

“(5) COMMERCIAL DENTAL LABORATORY. A technician or group of technicians available to any or all licensed dentists for construction or repair of dental appliances.

“(6) PRIVATE TECHNICIANS. A technician employed by a dentist or group of dentists for a specified salary.

“(7) **LOCAL ANESTHESIA.** The elimination of sensations, especially pain in one part of the body by topical application or regional injection of a drug.

“(8) **GENERAL ANESTHESIA.** A controlled state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic method.

“(9) **SEDATION.** A depressed level of consciousness that retains the patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, produced by a pharmacologic method.

“§34-9-9.

“(a) No person other than a dentist licensed pursuant to this chapter may:

“(1) Employ a dentist, dental hygienist or both in the operation of a dental office;

“(2) Place in the possession of a dentist, dental hygienist or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment or offices; or

“(3) Retain the ownership or control of dental equipment, material, or office and make the same available in any manner for the use of a dentist, dental hygienist or other agent.

“(4) The term ‘person’ as used in this section, shall not in any way pertain to state, county, municipal or city institutions but shall be deemed to include any individual, firm, partnership, corporation or other entity not licensed to practice dentistry in the State of Alabama.

“(5) Nothing in this subsection shall apply to bona fide sales of dental equipment, material or office secured by a chattel mortgage or retention title agreement, or to an agreement for the rental of the equipment or office by bona fide lease at a reasonable amount, and under which agreement the licensee under this chapter maintains complete care, custody, and control of said equipment and his practice. Further, nothing in this subsection shall prohibit or restrict persons, firms or corporations from employing or retaining licensed dentists to furnish dental treatment for their employees or dependents of their employees.

“(b) The purpose of this section is to prevent a non-dentist from influencing or otherwise interfering with the exercise of a

dentist's independent professional judgment. In addition to the acts specified in subsection (a) no person, other than a dentist licensed in accordance with this chapter, shall enter into a relationship with a person licensed under this chapter pursuant to which said unlicensed person exercises control over the following:

“(1) The selection of a course of treatment for a patient, the procedures or materials to be used as a part of such course of treatment, and the manner in which such course of treatment is carried out by the licensee;

“(2) The patient records of a dentist;

“(3) Policies and decisions relating to pricing, credit, refunds, warranties and advertising; and

“(4) Decisions relating to office personnel and hours of practice.

“(c) Any licensed dentist or dental hygienist who enters into any of the arrangements or relationships described in subsection (a) or subsection (b) above with an unlicensed person as defined above, may be subject to any of the penalties set forth in section 34-9-18.

“§34-9-11.

“When application and accompanying proof as are required herein are found satisfactory, the board shall notify the applicant to appear before it for examination at a time and place to be fixed by the board, and each applicant shall be examined and graded by number in lieu of name. All examinations provided for in this chapter shall be conducted by the board and shall be of such type and character as to test the qualifications of the applicant to practice dentistry. In conducting examinations, each member of the board shall submit his questions to the other board members, and the entire board shall decide whether or not each proposed question is fair and practical. It is provided, however, that the board may recognize any written parts of an examination given by the national board of dental examiners in lieu of such examinations or subject to such examinations as the board may require. Those found qualified by the board shall be granted a license and a license certificate which shall bear a serial number, the full name of the licensee, the date of issuance and the seal of the board, and shall be signed by each member of the board.

“§34-9-17.

“(a) Any person or persons may practice or offer to practice dentistry in connection with any dental office or offices by or under the use of a name other than their own provided their name or names as they appear on their license certificate granted to him or them as a dentist pursuant to this chapter appear in a reasonably dignified manner either following or beneath any name selected and

further provided that such person or persons are personally present in their office or offices operating as a dentist or personally overseeing such operations as they are performed in their office or each of their offices. When an associate in practice is on temporary active duty with the armed forces, his name may continue to appear in connection with the practice of dentistry at any office or offices. Nothing herein shall allow or permit any person or persons to select a name that suggests or implies a nonprofit or charitable activity. The violation of any of the provisions of this subsection by any dentist may subject such dentist to any of the penalties outlined in section 34-9-18.

“(b) It shall be unlawful for a licensee to permit his or her name to appear in any manner on, within or in connection with any office which he has sold to another licensee and from which he has severed his active practice, provided the name of the dentist who sells his office to a licensed dentist may remain in the office for a period not to exceed six months and it shall also be unlawful for the buyer to permit the former owner’s name to appear in any manner on, within or in connection with said office, except as herein provided. The violation of any of the provisions of this subsection by any dentist may subject such dentist to the penalties outlined in section 34-9-18.

“(c) Nothing in this section shall be so construed as to prevent two or more licensed dentists from associating together for the practice of dentistry.

“§34-9-18.

“(a) The board may invoke disciplinary action as outlined in subsection (b) hereof whenever it shall be established to the satisfaction of the board, after hearing as hereinafter provided, that any dentist or dental hygienist has been guilty of the following:

“(1) Fraud, deceit or misrepresentation, whether knowingly or unknowingly, in obtaining any license, license certificate, annual registration certificate, money or other thing of value; or

“(2) Gross immorality; or

“(3) Is a menace to the public health or to patients or others by reason of a disease; or

“(4) Is an habitual user of intoxicants or drugs rendering him unfit for the practice of dentistry or dental hygiene; or

“(5) Has been convicted for violation of federal or state narcotics or barbiturate laws; or

“(6) Is guilty of gross negligence in the practice of dentistry or dental hygiene; or

“(7) Is guilty of employing, allowing or permitting any unlicensed person or persons to perform any work in his office which, under the provisions of this chapter, can only be legally done by a person or persons holding a license to practice dentistry or dental hygiene; or

“(8) Willfully or negligently violates the rules of the state department of health or of the board regarding sanitation; or

“(9) Is guilty of division of fees, or agreeing to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or his legal representative, except the division of fees between dentists practicing in a partnership and sharing professional fees, or in case of one licensed dentist employing another; or

“(10) Is guilty of professional connection or association with or lending his name to anyone who is engaged in the illegal practice of dentistry; or

“(11) Conviction in any court of competent jurisdiction of a felony or a misdemeanor involving moral turpitude; or

“(12) a. A dental hygienist using or attempting to use in any manner whatsoever any prophylactic list, call list, records, reprints, or copies of same, or information gathered therefrom, of the names of patients whom such dental hygienist served in the office of a prior employer, unless such names appear upon the bona fide call or prophylactic list of her present employer and were caused to so appear through the legitimate practice of dentistry as provided for in this chapter; or

“b. A licensed dentist who aids or abets or encourages a dental hygienist employed by him to make use of a so-called prophylactic list or the calling by telephone or by the use of letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist employing such hygienist or nurse; or

“(13) Pertaining to licensed dentists only, the prescribing, administering or dispensing of any controlled substances enumerated in Schedules I through V contained in the Alabama uniform controlled substances act, chapter 2 of title 20, or any amendment or successor thereto, for any person not under his treatment in the regular practice of his profession; or

“(14) Irregularities in billing an insurance company or other third party payer for services rendered to a patient; or

“(15) Violating any rule or regulation adopted by the board of dental examiners; or

“(16) Has had his license to practice dentistry or dental hygiene from another state suspended or revoked based upon acts similar to those described in this section. A certified copy of the record of suspension or revocation of the state making such suspension or revocation shall be conclusive evidence thereof.

“For the purposes of this section irregularities in billing shall include: reporting charges for the purpose of obtaining a total payment in excess of that usually received by the dentist for the services rendered; falsely reporting treatment dates for the purpose of obtaining payment; falsely reporting charges for services not rendered; falsely reporting services rendered for the purpose of obtaining payment; or failing to advise any third party payer that the co-payment provisions of a contract have been abrogated by accepting the payment received from the third party payer as full payment.

“(b) When the board finds any dentist or dental hygienist guilty of any of the grounds set forth in subsection (a), it may enter an order imposing one or more of the following penalties:

“(1) Refuse to issue the dentist or dental hygienist license or license certificate provided for in this chapter.

“(2) Revoke the license of any dentist or dental hygienist.

“(3) Suspend the license of any dentist or dental hygienist.

“(4) Enter a censure.

“(5) Issue an order fixing a period and terms of probation best adapted to protect the public health and safety and to rehabilitate the dentist or dental hygienist.

“(6) Imposition of an administrative fine not to exceed \$1,000.00 for each count or separate offense.

“(7) Imposition of restrictions on the scope of practice.

“(8) Imposition of peer review or professional education requirements.

“(9) Assessment of the costs of the disciplinary proceedings.

“(c) Failure to comply with any final order of the board, including but not limited to an order of censure or probation, is cause for suspension or revocation of a license.

“(d) No disciplinary action as outlined in subsections (b) or (c) hereof shall be invoked or entered except after hearing by the board as provided in this chapter, and such order is subject to judicial review as provided by this chapter.

“No order of suspension or revocation provided in this section shall be made or entered except after hearing by the board as provided

in this chapter, and such order shall be subject to judicial review as provided by this chapter.

“§34-9-19.

“(a) For the purpose of this section, the following terms shall have the respective meanings:

“(1) DENTIST. Any person licensed to practice dentistry in this state pursuant to the provisions of this chapter, any association or partnership formed for the purpose of practicing dentistry and any professional corporation or professional unincorporated association formed pursuant to Title 10, Chapter 4 or 10, for the purpose of practicing dentistry.

“(2) ROUTINE DENTAL SERVICE. A dental service may be considered routine for a dentist if it has the following characteristics:

“a. It is performed frequently in the dentist’s practice.

“b. It is usually provided at a set fee to substantially all patients receiving the service.

“c. It is provided with little or no variance in technique or materials.

“d. It includes all professionally recognized components within generally accepted standards.

“(3) ADVERTISEMENT. An advertisement is information communicated in a manner designed to attract public attention to the practice of a dentist as heretofore defined.

“(4) FALSE, FRAUDULENT, MISLEADING OR DECEPTIVE. A false, fraudulent, misleading or deceptive statement or claim is one which:

“a. Contains a misrepresentation of fact;

“b. Is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;

“c. Or is intended or is likely to create false or unjustified expectations of favorable results;

“d. Implies unusual or superior dental ability;

“e. Contains other representations or implications that in reasonable probability will cause an ordinary and prudent person to misunderstand or be deceived.

“(b) A dentist may provide information regarding himself, his practice, and fixed fees associated with routine dental services in a dignified manner only in newspapers, magazines, yellow page directories, consumer directories, or comparable publications, or billboards



or in written communication by mail or in broadcast advertising over federal communications commission approved commercial radio or television. Contact by telephone or in person delivery of written materials other than through the postal service or similar delivery service is prohibited, except as provided in subdivision (6) hereof. In so advertising, a dentist shall not make any false, fraudulent, misleading or deceptive statements or claims. The dentist shall have ultimate responsibility for all advertisements which are approved by him, his agents or associates and the dentist shall be responsible for the following:

“(1) Broadcast advertisements shall be recorded, approved by the dentist and a recording of the actual transmission shall be retained by the dentist for one year following the final appearance or use of the advertisement and the dentist is responsible for making copies of same available to the board of dental examiners within 10 days following a request by the board.

“(2) Written or printed advertisements shall be approved by the dentist and a copy of the publication in which the advertisement is displayed shall be retained by dentist for one year following the final appearance or use of the advertisement, and the dentist is responsible for making copies of same available to the board of dental examiners within 10 days following a request by the board.

“(3) Other forms of advertisement shall be approved by the dentist and the contents and specifications (where applicable) shall be retained by the dentist for one year following the final appearance or use of the advertisement and the dentist is responsible for making copies of same available to the board of dental examiners within 10 days following a request by the board.

“(4) Advertising shall include the name of the dentist(s) and the names of all associates.

“(5) Advertising may include the following information:

“a. The dentist's title or degree or designation of any special area of dental practice approved by the American Dental Association in which the dentist has met the existing educational requirements and standards set forth by that association.

“b. Office and telephone answering hours, routine dental service. Where complications are likely to arise or where other more expensive services may be required or advised or where special classes of patients such as children are involved, the advertising shall indicate the maximum fee which may be charged.

“(6) A dentist may use or participate in the use of professional cards, appointment slips or cards, office signs, signs designating

location, letterhead, or similar professional notices, only if they are neither false, fraudulent, misleading or deceptive.

“(c) The following requirements shall be met by a dentist when advertising a routine dental service:

“(1) No range of fee may be advertised for routine dental services.

“(2) Consultation, treatment planning, or treatment for any routine dental service advertised for a specific fee must be made available for a minimum of 60 days following the last day of publication or broadcast of that fee or for any shorter period of time if clearly specified in the advertisement.

“(3) When a routine dental service is advertised as ‘free’, ‘no charge’, ‘without charge’, or the like, such service must be made available at no cost for a minimum of 60 days following the date of the last publication or broadcast of such free service or for any shorter period of time if clearly specified in the advertisement.

“(4) When a patient accepts the treatment plan for a routine dental service which was advertised by the dentist, any subsequent dental service which is reasonably and foreseeably related to the advertised routine service must be provided without additional charge, unless the advertisement for the routine dental service includes the following statement:

“Additional charges may be incurred for related services which may be required in individual cases.

“(5) Advertisements may not include the following:

“a. Drawings, multi-colored prints, illustrations, animations, portrayals, dramatizations, slogans, music, lyrics, or pictures which are false, fraudulent, misleading or deceptive.

“b. Celebrities, celebrity or personality endorsements.

“c. Demonstrations of skills or methods of practicing dentistry.

“(6) Directly or indirectly offering, giving, receiving or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services is prohibited.

“(7) Testimonials and endorsements, including but not limited to, character references, statements of benefits from dental services received, and expressions of the appreciation for dental services shall not be used in any announcement, publicity, or advertisement.

“(8) Promotion of the sale of services, goods, appliances, or drugs in such manner as to exploit the patient for the financial gain of the practitioner or of a third party is prohibited.

“(9) Revealing a patient’s personally identifiable facts, data, or information obtained in a professional capacity is prohibited.

“(10) All advertisements shall contain, in legible print, the following language:

“‘No representation is made about the quality of the dental services to be performed or the expertise of the dentist performing such services.’

“(d) The dentist is prohibited from including the following when advertising:

“(1) Statements claiming superiority in the name of a particular method of treatment shall be considered misleading and are prohibited. Such prohibition shall include but not be limited to:

“a. Statements that a certain dentist is a specialist or specializes in any branch of dentistry unless that speciality is approved by the American Dental Association and the dentist has met the existing educational requirements and standards set forth by the American Dental Association for that approved speciality. It is further provided that dentists who choose to announce specialization or the term ‘practice limited to’ shall:

“1. Limit their practice exclusively to the announced special area(s) of dental practice, provided at the time of the announcement such dentists have met in each approved specialty for which they announce the existing educational requirements and standards set forth by the American Dental Association.

“2. Not use their eligibility to announce as specialists to make the public believe that specialty services rendered in the dental office are being rendered by qualified specialists when such is not the case.

“3. Avoid any inference that general practitioners who are associated with specialists are qualified to announce themselves as specialists.

“4. Include an acknowledgement in all advertisements that refer to specialty services indicating whenever said services are being performed by a general dentist.

“b. Statements such as ‘quality dentistry’, ‘quality work’, ‘staff of skilled dentists’, ‘skilled employees’, or references to uncertified or unlicensed employees.

“c. Statements that a certain dentist uses or may use a special material, drug formula, medicine or appliance, that is not available or used by other dentists generally.

“(2) Statements of superior facilities at a certain office are prohibited; for example, ‘scientifically equipped’, ‘latest modern equipment’, ‘modern offices’, ‘modern methods’, ‘modern devices’, or any similar expressions.

“(3) The advertising of performance of any dental operation without causing pain is prohibited.

“(4) False statements including the number of years in practice or in any one location or reference thereto are prohibited.

“(5) The omission from signs, or advertising of the names of any associates or employed licensed dentist is prohibited.

“(6) Statements of any nature that indicate that a certain dentist does all the work himself, when, as a matter of fact, all or part of the work or service is performed by another, are prohibited.

“(7) Statements which indicate the use of any anesthetic, drug, formula, material, method or system which is falsely advertised or misnamed are prohibited.

“(8) Statements that a dentist or a dental group is affiliated with a non-profit or charitable organization are prohibited.

“(e) No dentist shall advertise or solicit patients in a manner that is false, fraudulent, misleading or deceptive in any material respect.

“(f) No dentist shall publish or circulate, directly or indirectly, any fraudulent, false, misleading or deceptive statements as to the skill or methods of practice of himself or any other person.

“(g) In the case of advertising no dentists shall cause their name or picture to appear in connection or association with any publication, statement, article or presentation connected with or concerning any aspect of dentistry unless the publication, statement, article or presentation is actually authored, written or prepared by that dentist.

“(h) Violation of any provision of this section shall subject the dentist to the penalties outlined in section 34-9-18, and no order imposing those penalties shall be made or entered except after notice and hearing by the board as provided in this chapter, and such order shall be subject to judicial review as provided by this chapter.

“§34-9-22.

“Whoever sells or offers to sell a diploma conferring a dental degree, or a license certificate or annual registration certificate granted pursuant to this chapter or prior dental act, or procures such diploma or license certificate or annual registration certificate with intent that it shall be used as evidence of the right to practice dentistry

or dental hygiene as defined by law, by a person other than the one upon whom it was conferred or to whom such license certificate or annual registration certificate was granted, or with fraudulent intent alters such diploma or license certificate or annual registration certificate, or uses or attempts to use it when it is so altered shall be deemed guilty of a misdemeanor. The board may impose any of the penalties outlined in section 34-9-18 against any person found guilty of making a false statement or cheating, or of fraud or deception either in applying for a license, a license certificate or annual registration or in taking any of the examinations provided for herein.

“§34-9-25.

“From any order of the board imposing any of the penalties found in section 34-9-18, any party affected thereby may bring an action in the circuit courts to set aside said order on the ground that same is unlawful or arbitrary.

“§34-9-26.

“No person shall practice as a dental hygienist in this state until such person has passed an examination given by the board under such rules and regulations as it may promulgate. The fee for such examination shall be not less than \$20.00 nor more than \$180.00, and the license certificate fee shall be \$20.00. The board shall issue licenses and license certificates as dental hygienists to those persons who have passed said examination and have been found qualified by the board. The license certificate and annual registration certificate shall be displayed in the office in which the dental hygienist is employed. No person shall be entitled to such license and license certificate unless such person is 19 years of age and of good moral character. Each applicant for examination and license as a dental hygienist shall be a graduate of a school of dental hygiene which has been approved by the board or in lieu thereof shall have served at least one year as a dental assistant and shall have served at least one year as a dental hygienist trainee under a training permit issued by the board to a qualified dentist practicing in this state in accordance with the dental hygienist training program established by the board of dental examiners of Alabama. Any person practicing in violation of the provisions of this section shall be guilty of a misdemeanor, and the board may impose the penalties outlined in section 34-9-18 for such violation.

“§34-9-27.

“A dental hygienist shall work only under the direct supervision of a duly licensed dentist practicing in this state. Dental hygienists may take, develop and mount oral x-rays; remove calcareous deposits, accretions or stains from the teeth, perform any intra-oral procedures allowed by rule or regulation of the board of dental examiners of

Alabama and assist a licensed dentist in his or her practice. Any person licensed by the board under this section who has completed the curriculum for dental hygienists at a dental school approved by the board shall have the right to use the title dental hygienist or the abbreviations thereof, 'D.H.' appended to his or her name signifying the certificate conferred. The board may impose any of the penalties outlined in section 34-9-18 against any dentist who shall permit any dental hygienist working under his or her supervision to perform any operation other than those permitted under the provisions of this section, and may impose the penalties outlined in said section 34-9-18 against any dental hygienist who shall perform any operation other than those permitted under this section.,

“§34-9-29.

“When it appears to the board that any person is violating any of the provisions of this chapter, the board may in its own name bring an action in the circuit court for an injunction, and said court of this state may enjoin any person from violating this chapter regardless of whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted. For purposes of this section, person shall be deemed to include any individual, firm, partnership, corporation, professional association, professional corporation or other entity.

“§34-9-41.

“The board shall annually elect from its membership a president, vice-president and secretary-treasurer and may employ a secretary who is not a member of the board, and it shall not be necessary that the secretary be a dentist. The board shall have a common seal. The board shall hold an annual meeting in Birmingham at the University of Alabama School of Dentistry as soon as practical after the graduation exercises of the dental school for the purpose of examining applicants for a license to practice dentistry and dental hygiene or at such other times and places as the board may designate for the purpose of transacting its business and examinations. Three members of the board shall constitute a quorum for the transaction of business at any meeting except, that, in conducting hearings involving any of the penalties outlined in section 34-9-18 and examinations of licensure, five members of the board shall be present. In conducting examinations or hearings involving any of the penalties outlined in section 34-9-18, a majority of the board may appoint any former member of the board and such other licensed practicing dentists who for such purposes shall have all the powers and privileges of such office as a regular board member possesses. Out of the funds of the board the members thereof shall receive as compensation a sum to be fixed by the board, said sum not to be less than \$25.00 nor more than \$150.00 per day and the necessary expenses for each

day actively engaged in the duties of their office. The secretary-treasurer shall receive such compensation as may be fixed by the board, which shall be in addition to his per diem and expenses, provided no per diem or expenses shall be allowed unless his duties require his absence from his office. The secretary shall receive such compensation as may be fixed by the board. The secretary-treasurer shall be custodian of all property, money, records and the official seal of the board. All money received by the board under this chapter shall be paid to and received by the secretary-treasurer of the board. The secretary-treasurer shall deposit to the credit of the board all funds paid to the board in a bank selected by its members. The board is authorized to expend such funds as shall be necessary to enforce the provisions of this chapter; to pay salaries, expenses and other costs herein provided; to promote the arts and science of dentistry; and for such other purposes as the board shall consider to be in the best interest of dentistry in this state. All the costs herein provided for shall be paid by checks drawn by the secretary-treasurer and countersigned by the president of the board. Should the property be other than money, the secretary-treasurer shall provide for the safekeeping thereof for the use of the board. All money, including license fees, annual renewal license certificate fees, examination fees and any and all other fees and receipts under the provisions of this chapter, are hereby appropriated to the board of dental examiners to be used as herein provided.

“§34-9-43.

“The board shall exercise, subject to the provisions of this chapter, the following powers and duties;

“(1) Adopt such rules for its government as it may deem necessary and proper;

“(2) Prescribe rules for qualification and licensing of dentists and dental hygienists;

“(3) Conduct examinations to ascertain the qualification and fitness of applicants for licenses as dentists and dental hygienists;

“(4) Make rules and regulations regarding sanitation;

“(5) Formulate rules and regulations by which dental schools and colleges shall be approved and formulate rules and regulations by which training, educational, technical, vocational, or any other institution which provides instruction for dental assistants, dental laboratory technicians or any other paradental shall be approved;

“(6) Grant licenses, issue license certificates, teacher's permits and annual registration certificates in conformity with this chapter to such qualified dentists and dental hygienists;

“(7) Conduct hearings or proceedings to impose the penalties outlined in section 34-9-18;

“(8) Employ such persons as it may deem necessary to assist in carrying out its duties in the administration and enforcement of this chapter, and to provide offices, furniture, fixtures, supplies, printing or secretarial service; expend such funds as may be deemed necessary therefor, and employ an attorney or attorneys, subject to the approval of the attorney general, to advise and assist in the carrying out and enforcing of the provisions of this chapter;

“(9) Investigate violations of the chapter that may come to the knowledge of the board, and institute or cause to be instituted before the board or in a proper court appropriate proceedings in connection therewith;

“(10) Adopt rules and regulations to carry out and make effective the provisions of this chapter;

“(11) Publish annually the rules and regulations promulgated by the board, a copy of the Dental Practice Act and a list of all persons licensed to practice under this chapter; and

“(12) Attend such meetings, seminars, work shops, or events that may in any way improve the function and efficiency of the board or improve the board’s ability to enforce and carry out the provisions of this chapter.”

**Section 2.** Any person licensed to practice dentistry in the state of Alabama shall be authorized to use anesthesia in accordance with the provisions of this section.

(1) All dentists are authorized to use local anesthesia.

(2) Twelve months after the effective date of this act, no dentist shall use general anesthesia on an outpatient basis for dental patients, unless such dentist possesses a permit of authorization issued by the board of dental examiners.

a. In order to receive such permit, the dentist must apply on a prescribed application form to the board of dental examiners, submit application fee to be determined by the board of dental examiners not to exceed \$100.00 and produce evidence showing that he or she:

1. Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects (or its equivalent) beyond the undergraduate dental school level in a training program as described in part II of the guidelines for teaching the comprehensive control of pain and anxiety in dentistry; or

2. Is a diplomat of the American board of oral and maxillofacial surgery, or is eligible for examination by the American board of oral



and maxillofacial surgery, or is a member of the American association of oral and maxillofacial surgeons; or

3. Employs or works in conjunction with a qualified medical doctor who is a member of the anesthesiology staff in an accredited hospital, provided that such anesthesiologist must remain on the premises of the dental facility until any patient given a general anesthetic regains consciousness and is discharged; and

4. Has a properly equipped facility for the administration of general anesthesia staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with procedures, problems and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team shall be determined by the board of dental examiners as outlined below.

b. Prior to the issuance of such permit, the board of dental examiners, at its discretion, may require an on-site inspection of the facility, equipment and personnel to determine if, in fact, the aforementioned requirements have been met. This evaluation shall be carried out in a manner prescribed by the board. The evaluation shall be conducted by a team of three examiners appointed by the board of dental examiners. These examiners shall be dentists who are authorized to administer general anesthesia.

If the results of the initial evaluation are deemed unsatisfactory, upon written request of the applicant, a second evaluation shall be conducted by a different team of examiners.

(3) Each dentist who is licensed to practice dentistry in the state at the effective date of this act who desires to continue to use general anesthesia shall make application on the prescribed form to the board of dental examiners within 12 months of the effective date of this act. If he meets the requirements of this section, he shall be issued such a permit. If said applicant does not meet the requirements of paragraph a. of subdivision (2) of this section, he may be entitled to a "General Anesthesia Permit" provided said applicant passes to the satisfaction of the board an on-site inspection as provided for in paragraph b. of subdivision (2) of this section.

(4) Each dentist who has not been using general anesthesia prior to the effective date of the act, may be granted by the board a temporary provisional permit based on the applicant's producing evidence that he or she has complied with paragraph a. of subdivision (2) of this section above pending complete processing of the application and thorough investigation of an on-site evaluation as described in paragraph b. of subdivision (2) of this section.

**Section 3.** (a) Any dentist holding a permit of authorization issued by the board of dental examiners shall be subject to review and such permit must be renewed annually.

(b) The board shall, with fee to be determined by the board not to exceed \$50.00, renew the general anesthesia permit annually unless the holder is informed in writing that a reevaluation of his credentials and facility is to be required. In determining whether such reevaluation is necessary, the board shall consider such factors as it deems pertinent including, but not limited to, patient complaints and reports of adverse occurrences. Such reevaluation shall be carried out in the manner described in paragraph b. of subdivision (2) of this section.

**Section 4.** Any dentist using general anesthesia, and his auxiliary personnel shall be currently certified in cardiopulmonary resuscitation.

**Section 5.** The issuance of a permit for general anesthesia shall include the privileges of administering intravenous sedation in accordance with the provisions of this section.

(1) Twelve months after the effective date of this act, no dentist shall use intravenous sedation on an outpatient basis for dental patients unless such dentist possesses a permit of authorization issued by the board of dental examiners as hereinafter provided. The dentist applying for or holding such permit shall be subject to on-site inspections as set forth in paragraph b. of subdivision (2) of section 2.

a. In order to receive such permit, the dentist must apply on a prescribed application form to the board of dental examiners and submit a fee to be determined by the board of dental examiners not to exceed \$50.00 and produce evidence showing that he or she:

1. Has received formal training in the use of intravenous sedation and is competent to handle all emergencies relating to intravenous sedation and is currently certified in cardiopulmonary resuscitation. The certification of the formal training shall specify the total number of hours as well as the number of didactic hours and the number of patient contact hours. The number of didactic hours and the number of patient contact hours shall be determined by the board. This training program must have been approved as acceptable for training in intravenous sedation by the board of dental examiners; and

2. Has a properly equipped facility for the administration of intravenous sedation, staffed with a supervised team of auxiliary personnel, capable of reasonably assisting the dentist with procedures, problems and emergencies incident thereto.

b. Adequacy of the facility and the competency of the sedation team shall be determined by the board of dental examiners.

c. Prior to the issuance of such permit, the board of dental examiners at its discretion, may require an on-site inspection of the facility, equipment and personnel to determine if, in fact, the aforementioned requirements have been met. This evaluation shall be

carried out in the same manner as provided in subdivision (2) of this section.

(2) Each dentist who is licensed to practice dentistry in the state on the effective date of this act who desires to continue to use intravenous sedation shall make application on the prescribed form to the board of dental examiners within 12 months of the effective date of this act. If he meets the requirements of this section, he shall be issued such a permit. If said applicant does not meet the requirements of paragraph a. of subdivision (1) of this section, he may be entitled to an "Intravenous Sedation Permit" provided said applicant passes to the satisfaction of the board an on-site inspection. Said inspection shall ascertain that the dentist has a properly equipped facility for the administration of intravenous sedation, staffed with a supervised team of auxiliary personnel capable of reasonably assisting the dentist with procedures, problems and emergencies incident thereto.

The board, in conducting the on-site inspection and evaluations required in this section, shall appoint a team of three examiners who shall be dentists certified to administer intravenous sedation in accordance with this act.

(3) A dentist utilizing intravenous sedation and his auxiliary personnel shall be currently certified in cardiopulmonary resuscitation.

(4) Each dentist who has not been using intravenous sedation prior to the effective date of the act may be granted a temporary provisional permit by the board based on the applicant's producing evidence that he or she has complied with this section pending complete processing of the application and thorough investigation by the on-site evaluation.

**Section 6.** The board shall, with fee to be determined by the board not to exceed \$50.00, renew the intravenous sedation permit annually unless the holder is informed in writing that a reevaluation of his credentials and facility is to be required. In determining whether such reevaluation is necessary, the board shall consider such factors as it deems pertinent including, but not limited to, patient complaints and reports of adverse occurrences. Such reevaluation shall be carried out in the manner described in subdivision (2) of this section.

**Section 7.** (a) All licensees engaged in the practice of dentistry in the state must submit a complete report within a period of 30 days to the board of dental examiners of any mortality or other incident occurring in the outpatient facilities of such dentist which results in permanent physical or mental injury of said patient as a direct result of general anesthesia or sedation techniques.

(b) The board of dental examiners shall have authority to adopt rules and regulations implementing and enforcing the provisions of this section.

(c) Violation of any provision of this section shall subject the dentist to the penalties outlined in section 34-9-18, Code of Alabama 1975, and no order imposing those penalties shall be made or entered except after notice and hearing by the board as provided in chapter 9, title 34, Code of Alabama 1975, such order shall be subject to judicial review as provided by such chapter.

**Section 8.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-698

H. 928—Rep. Martin

### AN ACT

To amend the Code of Alabama 1975, Sections 26-16-3 and 26-16-30, relating to the Child Abuse and Neglect Prevention Board by providing further for the authorities, powers and duties of both the state Child Abuse and Neglect Prevention Board and the executive director of the Children's Trust Fund as to the hiring of staff and compensation of staff and to provide further for the distribution of funds.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 26-16-3 and 26-16-30 of the Code of Alabama 1975, are hereby amended to read as follows:

“§26-16-3.

“(a) The state child abuse and neglect prevention board is created as an autonomous agency of the state government.

“(b) There shall be an executive director of the state board, appointed by the governor from a list of candidates submitted under section 26-16-6(a)(2) of this article. The executive director shall not be a member of the state classified civil service. The executive director shall be compensated by a salary payable out of the state treasury

at the times and in the manner that the salary of other state officials is paid. The exact amount of the executive director's salary shall be set by the board, but in no event shall said salary exceed 75 percent of amount set as the standard compensation for cabinet level officials of the state.

“(c) The executive director shall hire all staff required to exercise the powers and carry out the duties of the state board. In carrying out the duties provided in sections 26-16-6(a)(3), (4), (5), (6), (7), and (b), the executive director shall coordinate these activities with the state department of pensions and security. The executive director with the approval of the state board shall have the authority to hire outside the state classified civil service an executive assistant who shall serve at the pleasure of the executive director. The state board shall approve the number of staff members hired and their job descriptions and further shall set the rate of pay or compensation due the executive assistant. Each staff member except the executive director and his executive assistant shall be a member of the state classified civil service.”

“§26-16-30.

“(a) The children's trust fund is created as a separate fund in the state treasury. The primary purpose of such fund is to encourage the direct provision of services to prevent child abuse and neglect. In furtherance of this purpose, the fund may be expended: to provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the problems of child abuse and neglect; to encourage professional persons and groups to recognize and deal with problems of child abuse and neglect; to make information about the problems of child abuse and neglect available to the public and organizations and agencies which deal with problems of child abuse and neglect; and to encourage the development of community prevention programs. To these ends the fund shall be expended only as provided in this article, the Child Abuse and Neglect Prevention Act (The act proposed by House Bill No. 57 of the 1983 Regular Session), or other law specifically regulating expenditures therefrom.

“(b) The state treasurer shall credit to the trust fund all amounts appropriated for this purpose under this article and any amounts received under section 26-16-8 of the Child Abuse and Neglect Prevention Act.

“(c) The state treasurer shall invest trust fund money in the same manner as surplus funds are invested pursuant to section 36-17-18. Earnings shall be credited to the trust fund.

“(d) Until the total amount of assets in the trust fund exceed \$10,000,000.00, not more than one half of the money contributed to

the trust fund each year, plus the earnings credited to the trust fund during the previous year, shall be available for disbursement upon the authorization of the state child abuse and neglect prevention board as provided in section 26-16-9 of the Child Abuse and Neglect Prevention Act. After such time that the state treasurer certifies that the assets in the trust fund exceed \$10,000,000.00, there shall be available for disbursement upon authorization of the state board as provided in section 26-16-9 of the Child Abuse and Neglect Prevention Act all earnings credited to the trust fund and such other funds contributed to or received by the state board; provided, however, that the assets in the trust fund shall not be reduced below said \$10,000,000.00."

**Section 2.** All laws or parts of laws in conflict herewith are hereby repealed.

**Section 3.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-699

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H. 946—Reps. Martin, Drake, Smith, Bugg, Tanner, Parker, Onderdonk, Lauderdale, Carter, Starkey, Moore, Clark (D), Goodwin, Biddle, Grayson, Junkins, Newman, Clark (J), Richardson, Blake, Zoghby, Gaston, Burke, Trammell, Boles, Gray, Escott, Spratt, White (G), Ford, Harvey, Bowling, White (L), Cosby, Johnson (Roy), Warren, Grouby, Carothers, Flowers, Beasley, Hammett, Venable, Johnson (RG), Laird, Adams, Crow, Browder, Penry, Lindsey, Mathis, Kvalheim, McMillan,

Harper, Marietta, Turner,  
Blakeney, and Holley

### AN ACT

Relating to investigations by law enforcement agencies and social service agencies of this state concerning suspected or actual child abuse or neglect, so as to require agencies to share their information, upon request, with any other agency or agencies when the sharing of such information is necessary to prevent or discover child abuse or neglect.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Law enforcement agencies of this state, social service agencies of this state, and state and local departments of pensions and security shall share information concerning investigations of suspected or actual child abuse or neglect when the sharing of such information is necessary to prevent or discover abuse or neglect of children.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-700

H. 58—Rep. Harvey

### AN ACT

To amend Section 9-13-82(a) of the Code of Alabama 1975, so as to provide for severance of forest products at an increased tax rate.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 9-13-82(a) of the Code of Alabama 1975 is hereby amended to read as follows:

“§9-13-82.

“(a) The measure of the tax is at the following rates:

“(1) On pine lumber, \$0.40 per 1,000 feet board measure lumber tally. Where the timber is sold as logs and is not converted into

lumber in Alabama, the rate shall be \$0.60 per 1,000 feet log scale (Doyle rule) except that logs under eight inches in diameter inside the bark at the small end shall be scaled as containing one foot log scale for each foot of length.

“(2) On hardwood, cypress and all other species of lumber, \$0.24 per 1,000 feet board measure lumber tally. Where the timber is sold as logs and is not converted into lumber in Alabama, the rate shall be \$0.40 per 1,000 feet log scale (Doyle rule) except that logs under eight inches in diameter inside the bark at the small end shall be scaled as containing one foot log scale for each foot of length.

“(3) On pulpwood, chemical wood and bolts, \$0.20 per standard cord of 128 cubic feet.

“(4) On crossties, six tenths of \$0.02 per piece and on switch ties, \$0.02 per piece.

“(5) On mine ties and coal mine props, \$0.10 per 100 pieces.

“(6) On pine ore mine props, \$0.60 per 1,000 feet log scale (Doyle rule) and on hardwood ore mine props, \$0.40 per 1,000 feet log scale (Doyle rule) except that props under eight inches in diameter at the small end shall be scaled as containing one foot log scale for each foot of length. In lieu of the foregoing schedule of taxes on ore mine props, the taxpayer may elect to pay the taxes due thereon at the rate of \$2.50 per 1,000 lineal feet regardless of species.

“(7) On piling and poles, \$1.50 per thousand board feet (Doyle Scale).

“(8) On turpentine (crude gum), \$0.12 per barrel of 400 pounds.

“(9) On stumpwood (tarwood), \$0.10 per ton (2,000 lbs.).

“(10) On pulpwood chips, \$0.20 per cord of a standard cord of 5,000 lbs.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-701

H. 89—Rep. Hall

## AN ACT

To authorize and provide for the promotion of the production, marketing, use and sale of wheat, corn, grain sorghum, and oats and wheat, corn, grain sorghum,



and oats products by research, education, advertising and other methods; and prescribing a method whereby wheat, corn, grain sorghum, and oat producers may act jointly with handlers, buyers, processors, the State Board of Agriculture and Industries, and others, for a promotional program; providing that producers may by referendum levy upon themselves assessments for financing a promotional program and for the collection, disbursements and expenditures of funds collected from assessments, the regulations, requirements and authority relative thereto; providing for nonassessments, or refund of assessments; prescribing duties of the Commissioner of Agriculture and Industries and the State Board of Agriculture and Industries with respect to a promotional program for the wheat, corn, grain sorghum, and oats producers of Alabama; and providing for the administration thereof by a nonprofit association which is fairly and substantially representative of the producers of wheat, corn, grain sorghum, and oats throughout the State; and providing for collection and distribution of assessments by dealers, handlers, and buyers of wheat, corn, grain sorghum, and oats; requiring an annual permit of such dealers, processors, and other buyers; and other administrative, enforcement, promotional, and penalty provisions.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** It is hereby declared to be in the interest of the public welfare that producers of wheat, corn, grain sorghum, and oats shall be authorized and encouraged to act jointly and in co-operation with handlers, dealers, and purchasers of wheat, corn, grain sorghum, and oats and with the Commissioner of Agriculture and Industries and with the State Board of Agriculture and Industries in promoting and stimulating by research, education, advertising and other methods, the increased and efficient production, distribution, use and sale of wheat, corn, grain sorghum, and oats and wheat, corn, grain sorghum, and oats products; and it is the intent and purpose of this act to authorize and provide a method and procedure for a promotional program for the wheat, corn, grain sorghum, and oats industry and the financing thereof pursuant to powers of the Legislature as authorized by the amendment to the State Constitution which expressly authorizes such activity.

**Section 2.** No association, meeting or activity undertaken in pursuance of the provisions of this act and intended to benefit the Alabama wheat, corn, grain sorghum, and oats industry shall be deemed or considered illegal or in restraint of trade.

**Section 3.** It is hereby further declared to be in the public interest and highly advantageous to the economy of the State that wheat, corn, grain sorghum, and oats producers be permitted by referendum as hereinafter provided to levy upon themselves an assessment, and to provide for the collection thereof for the financing or contributing toward the financing of a program of research, education, advertising and other methods designed to increase or promote the efficient and economical production, distribution and marketing as well as the increased use, consumption and sale of wheat, corn, grain sorghum, and oats and wheat, corn, grain sorghum, and oats products.

**Section 4.** Any nonprofit association of producers fairly and substantially representative of the producers of wheat, corn, grain sorghum, and oats throughout the State, may at any time after this act becomes effective, make application to the State Board of Agriculture and Industries for certification and approval for the purpose of conducting a referendum among wheat, corn, grain sorghum, and oats producers of the State, upon the question of levying an assessment, collecting, expending and utilizing same for the purpose or purposes authorized under this act and as stated in such referendum. Any nonprofit association approved or certified hereunder as an approved or certified association by the State Board of Agriculture and Industries shall be authorized to execute or carry out such a promotional program within the limits prescribed by this act.

**Section 5.** Upon filing with the State Board of Agriculture and Industries of an application by any nonprofit association of wheat, corn, grain sorghum, and oats producers, the said Board shall within thirty days thereafter meet and consider the application. If it is shown by the applicant to the satisfaction of the Board that the applicant is fairly and substantially representative of the wheat, corn, grain sorghum, and oats producers of this State, and shall otherwise find and determine that such application and the program proposed therein are in conformity with the provisions and purposes of this act, then, and in such an event, the Board shall certify such association as the duly delegated and authorized group or organization and shall likewise certify that such organization is duly authorized to conduct among the wheat, corn, grain sorghum, and oat producers of this State a referendum for the purpose set forth in its application which shall be consistent with the purposes of this act. In the event there is more than one pending application at any time, the Board must decide between the pending applications based on the program proposed, the number and geographical distribution of wheat, corn, grain sorghum, and oat producer members in the applicant organization, the size, stability, potential effectiveness and fiscal soundness of the applicant organization and any organizations with which it is affiliated, the existence and effectiveness of affiliated county organizations in the applicant organization and its affiliates, and the sentiment of wheat, corn, grain sorghum, and oat producers as ascertained by petitions, hearings, and otherwise as may be determined by the Board. No application shall be considered if an organization holds currently valid certification.

**Section 6.** Upon being so certified by the State Board of Agriculture and Industries, such organization shall thereupon be fully authorized and empowered to hold and conduct on the part of the Alabama wheat, corn, grain sorghum, and oats producers a referendum wherein they shall be entitled to vote on the question of whether or not they shall levy upon themselves an assessment under and subject

to and for the purpose stated in this act. The referendum shall be conducted on a statewide basis.

**Section 7.** With respect to any referendum conducted under the provisions of this act, the duly certified organization shall, not less than thirty days before the date for such referendum, publicly announce the date, hour, polling places and rules for voting in the referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected, and the general purposes to which said amount so collected shall be expended and applied. Such notice shall be published by the certified organization through the medium of an established farm publication and written notice thereof shall be given to each county agent in the area covered by the referendum.

**Section 8.** The arrangements for and the management of any referendum conducted hereunder shall be under the direction of the organization certified by the State Board of Agriculture and Industries to conduct the same, and such organization shall furnish all necessary ballots and arrange for the necessary poll holders. All expense and costs necessary to conduct such a referendum shall be borne by such organization.

**Section 9.** Any referendum conducted hereunder may be held on a statewide basis pursuant to rules and regulations adopted by the State Board of Agriculture and Industries for the holding of such referendum. All producers of wheat, corn, grain sorghum, and oats who shall be subject to any assessments levied hereunder shall be entitled to vote in the referendum. In such referendum, individuals so eligible for participation therein shall vote upon the question of whether there shall be levied an assessment for a period of five years in an amount set forth in the call for such referendum, which amount shall not exceed the limitations prescribed by this act.

**Section 10.** If in such referendum a majority or more of the wheat, corn, grain sorghum, and oats producers who are eligible to participate and actually vote therein, shall vote in the affirmative and in favor of the levying and collection of the assessment proposed on such referendum, then such assessment shall be levied and collected in the manner hereinafter provided. All wheat, corn, grain sorghum, and oats producers who produce wheat, corn, grain sorghum, or oats in the crop year immediately preceding the referendum shall be eligible to participate in said referendum. Following the referendum and within ten days thereafter the certified association shall canvass, tabulate and publicly declare and announce the results thereof. The amount of the assessment levied upon the sale of wheat, corn, grain sorghum, and oats shall not exceed two cents per net bushel after deductions for foreign material on any wheat, corn, grain sorghum, and oats sold by the producers, thereof.

**Section 11.** In the event any such referendum conducted as herein provided shall fail to receive the required number of affirmative votes from wheat, corn, grain sorghum, and oats producers eligible for participation and voting therein, then the certified association conducting the said referendum shall be authorized to call another referendum for the purposes herein set forth in the next succeeding year, on the question of an assessment and promotional program for the period authorized by this act, provided no such referendum shall be held within a period of twelve months from the date on which the last referendum was held. In the event such referendum is carried or favored by the required number of eligible wheat, corn, grain sorghum, and oats producers participating therein and assessments in pursuance thereof are levied for the period set forth in the call for such referendum, then the organization conducting such referendum shall have full power and authority to call and conduct during, or after, the last year of such period another referendum in which the wheat, corn, grain sorghum, and oats producers shall vote upon the question of whether or not such assessments shall be continued or renewed for another period of time as authorized under this act. Any subsequent referendums as authorized hereunder shall be subject to all of the requirements as an original referendum conducted under the provisions of this act.

**Section 12.** In the event the required number of wheat, corn, grain sorghum, and oats producers approve, by a referendum as provided hereunder, the levy of an assessment upon the sale of wheat, corn, grain sorghum, and oats for a promotional program, the Commissioner of Agriculture and Industries shall, within thirty days, notify in writing every person engaged in the business of buying wheat, corn, grain sorghum, and oats whether said buyers are located within the State of Alabama or not, that on or after the date designated in such notice, which shall not be less than thirty nor more than sixty days after the mailing of such notice by the Commissioner of Agriculture and Industries, that the amount of the assessment levied pursuant to the referendum shall be deducted by all purchasers of wheat, corn, grain sorghum, and oats from the sale price thereof where such wheat, corn, grain sorghum, and oats are purchased within the State. The deductions of amount of assessments as herein required shall be deducted by the first purchaser from the grower of the wheat, corn, grain sorghum, and oats. "First purchaser" means any person that buys wheat, corn, grain sorghum, and oats from the grower in the first instance; or any lienholder or pledgee, public or private, or assignee of said lienholder, secured party or pledgee, who gains title to the wheat, corn, grain sorghum, and oats from the grower as the result of exercising any legal rights by the lienholder, secured party, pledgee or assignee thereof, regardless of when the lien, security interest or pledge was created. First purchaser

also includes any person, public or private, who acquires a lien or security interest or receives a pledge of the wheat, corn, grain sorghum, and oats after said wheat, corn, grain sorghum, and oats are harvested. On or before the tenth day of each calendar month all assessments so deducted by the first purchaser shall be remitted to the Commissioner of Agriculture and Industries. The books and records of all such purchasers of wheat, corn, grain sorghum, and oats subject to the deductions or assessments are levied hereunder shall at all times during regular business hours be open for inspection by the Commissioner of Agriculture and Industries or his duly authorized representatives or agents for the purpose of ascertaining the accuracy of amounts remitted hereunder. The Commissioner of Agriculture and Industries shall be entitled to deduct three percent of all sums remitted to the Department of Agriculture and Industries under this act to defray expenses incident to collection and administration thereof. The amount thus deducted by the Commissioner for expenses incident to the administration of this act shall be paid into the State Treasury to the credit of the agricultural fund.

**Section 13.** The Commissioner of Agriculture and Industries shall remit to the treasurer of the certified association all monies paid to or collected by him on a quarterly basis between the first and fifteenth of January, April, July and October of each year, less a commission of three percent of the total amount so collected which commission shall be deposited in the agricultural fund of the State Treasury. The amount remitted to the treasurer of the certified association shall be used and expended by such association for a promotional program in the manner provided by this act and the rules and regulations of the association.

**Section 14.** The provisions of this act shall not apply to any person who purchases one thousand or less bushels of wheat, corn, grain sorghum, and oats in any calendar year, nor shall the provisions of this act apply to occasional sales between growers.

**Section 15.** Any producer of wheat, corn, grain sorghum, and oats against whom any assessment is made and deducted under authority of this act, if dissatisfied with said assessment, shall have the right to demand and receive from the treasurer of the certified association a refund of the amount of the assessment collected from such wheat, corn, grain sorghum, and oats producer, provided such demand for refund is made in writing within thirty days from the date on which such assessment was deducted from the sale price of wheat, corn, grain sorghum, and oats sold by such wheat, corn, grain sorghum, and oats producer; provided, that application for refunds of amounts deducted from the sale price of any wheat, corn, grain sorghum, and oats sold must give the name and address of the sale market or purchaser who bought the wheat, corn, grain sorghum,

and oats, date of purchase, invoice or weight ticket number, if any, and the amount of wheat, corn, grain sorghum, and oats purchased from him for which the assessment was deducted. Within thirty days after the first quarterly receipt of funds from the Commissioner of Agriculture and Industries, and thereafter within thirty days after receipt of such application, the certified association shall, after such association determines that the assessment was paid as claimed in the application, refund the amount so paid as an assessment. The mailing by the association of a valid check in the amount of such assessment, payable to seller, within thirty days after receipt of the application for refund, shall constitute a compliance with this section.

**Section 16.** Before any money is remitted by the Commissioner of Agriculture and Industries to the treasurer of an organization or association as authorized under the provisions of this act, the treasurer of said organization shall furnish the Commissioner a bond approved by the Commissioner in the amount of not less than the estimated annual total amount of the assessments handled by such officer. The surety on said bond shall be corporate surety company duly qualified and licensed to do business in Alabama and said bond shall be conditioned upon the faithful handling, proper accounting and properly authorized expenditure of all funds received and disbursed by the principal named in said bond.

**Section 17.** The funds derived from any assessments levied upon the sale of wheat, corn, grain sorghum, and oats as authorized under this act shall be used and expended by the certified association after such funds are remitted to it by the Commissioner of Agriculture and Industries for the purpose of promoting and stimulating by advertising and other methods the increased use and sale of wheat, corn, grain sorghum, oats, and wheat, corn, grain sorghum, and oats products. Any funds expended by the certified association not authorized by the promotional program previously approved shall be deemed as an unauthorized and illegal expenditure of such funds. All funds approved by the certified association for expenditure as required hereunder by any certified association for an approved promotional program for the wheat, corn, grain sorghum, and oat industry as authorized under this act are hereby appropriated for disbursement and expenditure by said certified associations to carry out any such approved promotional program or programs, and it shall not be necessary for the Legislature to make any specific or general appropriation for such disbursements or expenditures nor shall such disbursements and expenditures be subject to the budget and allotment requirements of Title 55, Chapter, 4, Article 3, Code of Alabama 1975, and such disbursements and expenditures shall not be restricted or subject to any other requirements for any general or special appropriations.

**Section 18.** Any certified association may enter into agreements with like associations, commissions, or other agencies of other states for the purpose of conducting a similar agricultural commodities promotional program jointly and such associations, commissions or other agencies in other states, and such certified association shall be authorized to contribute a proportionate share of the cost and expense necessary for such a program.

**Section 19.** The approved and certified association receiving and disbursing funds as herein authorized shall within sixty days following the end of each calendar year, or within a period of sixty days following the close of their fiscal year, cause an audit of their books and accounts to be conducted by a certified public accountant disclosing receipts, disbursements, expenditures and other information pertinent thereto and a copy thereof shall be forwarded to the State Board of Agriculture and Industries for inspection and review. The examiner of public accounts of the Department of Examiners of Public Accounts of the State of Alabama shall be authorized to audit, review and otherwise investigate the receipts and disbursements of such funds in the same manner that such duties are performed for examination and audits of agencies and departments of the State of Alabama. An examination or audit as herein required to be made and submitted to the State Board of Agriculture and Industries shall be open to public inspection. Within ninety days following the close of the certified association's fiscal year, if it has received any funds from assessments levied and collected pursuant to this act, such association shall publish a duly verified statement in the publication of the certified association showing the amount so received and collected and the amount or amounts spent for each project and item.

**Section 20.** The State Board of Agriculture and Industries is hereby authorized and empowered to adopt and promulgate rules and regulations to carry out the evident intent and purpose of this act which shall include the rules and regulations governing the holding of referendums as adopted by the certified association, the collection, deposit, handling, withdrawal and disbursement of assessments collected hereunder, and such other reasonable rules and regulations as may be necessary to effectuate the evident intent and purposes of this act. The certified association authorized to conduct a promotional program as authorized under this act shall have a right to recommend such rules and regulations to the Board of Agriculture and Industries and upon receipt of such recommended rules and regulations said Board shall meet within a period of not more than ninety days to consider their adoption. The certified association shall be given at least ten days' notice in writing of any such meeting held for the purpose of adopting rules and regulations as authorized hereunder.

**Section 21.** It shall be the duty of the Commissioner of Agriculture and Industries through the facilities of the Department of Agriculture and Industries to enforce and collect the assessment charges levied upon the sale of agricultural commodities as set forth under the provisions of this act and to enforce the rules and regulations of the State Board of Agriculture and Industries relative thereto. The State Board of Agriculture and Industries shall have authority at any time to revoke or cancel any approval or certification of an association in the event it finds that such association is not carrying out its promotional program in accordance with the provisions of this act and rules and regulations promulgated thereunder. Before any certification may be revoked the certified organization shall be given notice and an opportunity to be heard by the State Board of Agriculture and Industries upon the question of whether its certification should be revoked.

**Section 22.** Any individual, partnership, corporation, association or other business unit which buys wheat, corn, grain sorghum, or oats in Alabama from the producer thereof shall, in the event assessments are required to be deducted from the purchase price of such wheat, corn, grain sorghum, and oats under the provisions of this act, obtain from the Commissioner of Agriculture and Industries an annual permit which shall authorize such individual or business firm to engage in the business of buying wheat, corn, grain sorghum, and oats in Alabama. The permit required hereunder shall expire on June 30, the end of the year for which it is issued and shall be renewable as of July 1 unless revoked by the Commissioner for failure to comply with the provisions of this act. The application for the annual permit as required hereunder shall be accompanied by a fee of five dollars (\$5.00) which shall be deposited by the Commissioner in the State Treasury to the credit of the agricultural fund. The permit shall be conditioned upon compliance with the provisions of this act and rules and regulations duly adopted for carrying out the requirements of this act relative to the deduction and remittance of assessments by individuals or business firms buying wheat, corn, grain sorghum, and oats in Alabama whether such individuals or business firms are domiciled in Alabama or another State.

**Section 23.** (a) Any dealer, handler, processor, or other purchaser of wheat, corn, grain sorghum, and oats who willfully fails or refuses to deduct and pay to the Commissioner of Agriculture and Industries any assessment required to be so deducted and remitted to the Commissioner or who fails or refuses to obtain a permit authorizing the purchase of wheat, corn, grain sorghum, and oats in Alabama shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$500.00 and within the discretion of the Court, may also be imprisoned for a term not to exceed six months. Any purchaser of wheat, corn, grain sorghum,



and oats who fails or refuses to allow the Commissioner of Agriculture and Industries or his authorized agents and employees to inspect and review his books and records which disclose his purchases of wheat, corn, grain sorghum, and oats for the purpose of ascertaining accuracy of amounts deducted and remitted as required under this act shall also be guilty of a misdemeanor and upon conviction shall be punished as hereinabove provided.

(b) In addition to the above penalty and notwithstanding the existence of an adequate remedy at law, the circuit court, in equity, or other court of like jurisdiction or any judge thereof, shall have jurisdiction and for cause shown to grant a temporary or permanent injunction, or both, restraining and enjoining any person from buying wheat, corn, grain sorghum, and oats in Alabama without having a valid permit as required under this act or after such a permit has been revoked or from violating any other provisions and requirements of this act. Bills in equity for injunctive relief as authorized hereunder shall be filed in the name of the Commissioner of Agriculture and Industries in the circuit court or other court of like jurisdiction in the county of residence of the person who buys wheat, corn, grain sorghum, or oats in violation of the provisions of this act or in the county where such violation occurs. Any restraining order of injunction issued hereunder shall be issued without a bond.

**Section 24.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 25.** All laws or parts of laws which conflict with this act are hereby expressly repealed.

**Section 26.** This act shall become effective on the date upon which the Governor issues a proclamation that the constitutional amendment authorizing the Legislature to provide for the promotion of the wheat, corn, grain sorghum, and oats industry has been adopted.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-702

H. 194—Reps. White (L), Beasley,  
Butler, Mikell, and  
Johnson (RG)

### AN ACT

To amend sections 34-23-30, 34-23-32, 34-23-50, and 34-23-52, Code of Alabama 1975, which provide license fees established by the board of pharmacy, so as to provide further for said fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 34-23-30, 34-23-32, 34-23-50, and 34-23-52 are hereby amended to read as follows:

“§34-23-30.

“Every pharmacy, hospital pharmacy, drugstore, pharmacy department, prescription department, prescription laboratory, dispensary, apothecary or any other establishment with a title implying the sale, offering for sale, compounding or dispensing of drugs in this state shall register annually and receive a permit from the board of pharmacy. Any person desiring to open, operate, maintain or establish a pharmacy in this state shall apply to the board for a permit at least 30 days prior to the opening of such business. No pharmacy shall open for the transaction of business until it has been registered, inspected and a permit issued by the board. The application for a permit shall be made on a form prescribed and furnished by the board which when properly executed shall indicate the ownership desiring such permit and the names and license numbers of all licensed pharmacists employed as well as the location of such pharmacy and such other information as the board may require. If more than one pharmacy is operated by the same owner, a separate application for registration must be made and a separate permit issued for each such establishment. All permits issued under this section shall expire on December 31 of each calendar year. Every application for a permit for a new pharmacy shall be accompanied by a fee to be determined by the board, but said fee shall not be less than \$50.00 nor more than \$100.00. Every application for a renewal permit shall be accompanied by a fee to be determined by the board, but said fee shall not be less than \$25.00 nor more than \$50.00. Every application for a permit due to transfer of ownership shall be accompanied by a fee to be determined by the board, but said fee shall not be less than \$25.00 nor more than \$50.00. Each application for the renewal of a permit must be made on or before the last day of February of each year, at which time the previous permit shall become null and void. A penalty of \$25.00 for each overdue month shall be assessed in addition to the permit fee for renewal of delinquent permits. The secretary of the board shall issue a permit for each pharmacy whose application is found to be satisfactory by the board. Permits issued under this section shall not be transferable. Any change in the control of ownership or licensed pharmacists must be reported to the board in writing within 10 days of such occurrence. If the pharmacy is owned by a corporation, the permit shall be issued in the name of the corporation. It shall be the duty of the owners of such pharmacies who are not licensed pharmacists to immediately notify the board upon the termination of employment of licensed pharmacists and to cause the surrender of permits as indicated. The further operation

of the pharmacy in the absence of licensed pharmacists is forbidden; provided, that such nonregistered owner shall have a period of 30 days within which to comply with this provision. The next of kin of any deceased licensed pharmacist owner shall have a period of 30 days within which to comply with the provisions of this chapter, during which time no prescriptions shall be filled unless a licensed pharmacist is on duty. No mail order pharmacy shall transact business in this state without a permit from the board.

“Any person who violates this section shall be guilty of a misdemeanor.

“§34-23-32.

“Every manufacturer, bottler or packer of drugs, medicines, chemicals or poisons for medicinal purposes in this state shall register annually with the board by application for a permit on a form furnished by the board and accompanied by a fee to be determined by the board, but said fee shall not be less than \$50.00 nor more than \$100.00 for a new establishment or a fee to be determined by the board, but said fee shall not be less than \$25.00 nor more than \$50.00 annually for a renewal permit, or a fee to be determined by the board, but said fee shall not be less than \$25.00 nor more than \$50.00 for a permit due to transfer of ownership, and shall employ a full-time licensed pharmacist whose principal duty shall be confined to on-premise pharmaceutical operations. All permits issued under this section shall expire December 31 of each calendar year. Each application for the renewal of the permit must be made on or before the last day of February of each year, at which time the previous permit shall become null and void. A penalty of \$25.00 for each overdue month shall be assessed in addition to the permit fee for renewal of delinquent permits. For each application for a permit made and found to be satisfactory by the board, the secretary of the board shall issue to the applicant a permit for such manufacturing establishment, which permit shall be displayed in a conspicuous place. All drug-manufacturing companies in this state must, before shipping any drug bearing the legend, ‘caution, federal law prohibits dispensing without prescription’ or similar working causing these drugs to be known as legend drugs to new customers, assure themselves that the recipient is either a duly licensed doctor of medicine, dentistry, veterinary medicine or holds a registered pharmacy permit from the board by contacting the office of the board. No drug manufacturing company shall ship any legend drug to any person or firm after receiving written notice from the board that such person or firm no longer holds a registered pharmacy permit. Any person violating the provision of this section shall be guilty of a misdemeanor.

“§34-23-50.

"It shall be unlawful for any person, firm or corporation to practice pharmacy in this state or to permit prescriptions to be compounded and/or dispensed by persons other than those duly licensed by the board to practice pharmacy in this state; provided, that any person who holds a professional degree in pharmacy from a school of pharmacy recognized by the board who is serving his internship under the immediate direct supervision of a pharmacist on the premises registered by the board and any person who is enrolled in a school of pharmacy recognized by the board void. A penalty of \$25.00 for each overdue month shall be assessed in addition to the permit fee for renewal of delinquent permits. For each application for a permit made and found to be satisfactory by the board, the secretary of the board shall issue to the applicant a permit for such manufacturing establishment, which permit shall be displayed in a conspicuous place. All drug-manufacturing companies in this state must, before shipping any drug bearing the legend, 'caution, federal law prohibits dispensing without prescription' or similar wording causing these drugs to be known as legend drugs to new customers, assure themselves that the recipient is either a duly licensed doctor of medicine, dentistry, veterinary medicine or holds a registered pharmacy permit from the board by contacting the office of the board. No drug manufacturing company shall ship any legend drug to any person or firm after receiving written notice from the board that such person or firm no longer holds a registered pharmacy permit. Any person violating the provision of this section shall be guilty of a misdemeanor.

"§34-23-50.

"It shall be unlawful for any person, firm or corporation to practice pharmacy in this state or to permit prescriptions to be compounded and/or dispensed by persons other than those duly licensed by the board to practice pharmacy in this state; provided, that any person who holds a professional degree in pharmacy from a school of pharmacy recognized by the board who is serving his internship under the immediate direct supervision of a pharmacist on the premises registered by the board and any person who is enrolled in a school of pharmacy recognized by the board working under the immediate and direct supervision of a pharmacist on the premises registered by the board pursuing his education as a pharmacist shall be permitted to compound and/or dispense prescriptions. In order to be considered enrolled in a school of pharmacy and pursuing his education as a pharmacist, a person shall not be absent from said school of pharmacy for more than two consecutive semesters or three consecutive quarters, dependent upon the system in use in said school of pharmacy. Any bona fide resident of this state who shall furnish proof to the board in person by affidavits from two pharmacists licensed by the state board of pharmacy, neither of

whom shall be related to the applicant by blood or marriage, within a period of 90 days subsequent to August 26, 1966, establishing the fact that he has filled prescriptions under the supervision of a licensed pharmacist over a period of at least 15 successive years next preceding the offer of such proof shall be issued an assistant's certificate which will authorize him to practice pharmacy in this state; provided, that he shall be under the supervision of a licensed pharmacist at all times, and such person shall be subject to all of the provisions of this chapter governing the practice of pharmacy in this state, including, but not limited to, the revocation or suspension of such certificate for violations of the provisions of this chapter; and provided further, that such person shall pay an original registration fee to be determined by the board, but said fee shall not be less than \$25.00 nor more than \$50.00 upon the issuance of such certificate and the annual renewal fee to be determined by the board, but said fee shall not be less than \$10.00 nor more than \$50.00 as provided in this chapter. As used in the preceding sentence, the term 'supervision' shall be construed to mean that the supervising licensed pharmacist shall be either personally present or on call and available for consultation at all times, or a licensed pharmacist designated by the supervising licensed pharmacist shall be either personally present or on call and available for consultation at all times.

"§34-23-52.

"All certificates of licensure shall expire on December 31 following the date of issue. Every licensed pharmacist in order to continue to be licensed shall pay an annual renewal fee to be determined by the board, but said fee shall not be less than \$10.00 nor more than \$50.00 to the secretary of the board, such fee being due on January 1 each year and delinquent after the last day of February of each year; except, that holders of life certificates to practice pharmacy previously issued shall not be required to pay the annual renewal fee. The payment of the renewal fee shall entitle the registrants to renewal of their certificates at the discretion of the board. If any pharmacist shall fail to pay a renewal fee on or before the last day of February of any year, such certificate shall become null and void, and the holder of such certificate may be reinstated as a licensed pharmacist only upon payment of a penalty of \$10.00 for each lapsed year and all lapsed fees for each lapsed year, provided the lapsed time of registration shall not exceed five years, in which case reinstatement may be had only upon satisfactory examination by the board."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-703

H. 344—Reps. Clark (J), Harper,  
and Turner

## AN ACT

To amend certain sections of Chapter 9, Article 11, of Title 41 of the Code of Alabama 1975 to provide that the executive committee of the commission may not be empowered to execute any contract for an amount in excess of \$100,000.00; to provide that the commission offer to its employees any benefits offered to employees of the state of Alabama; to provide that the commission shall establish, operate and maintain a state memorial park to honor Alabamians who participated in all armed conflicts of the United States; and to provide that the \$50,000.00 outstanding indebtedness to the Alabama State Docks Department be forgiven.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Amendment of Section 41-9-343 of the Code of Alabama 1975. Section 41-9-343 of the Code of Alabama 1975 is hereby amended to read as follows:

Section 41-9-343. Executive committee.

The commission may, at its discretion, create and provide for an executive committee of not fewer than five members and delegate to such committee such powers and authority as are deemed advisable by the commission; except, that the executive committee may not be empowered to issue revenue or any other bonds or execute any lease or contract for a period in excess of one year or execute any contract for an amount in excess of \$100,000.00. The commission shall notify the governor when any member misses three consecutive meetings and the commission shall recommend that said member shall be removed by the governor for cause.

**Section 2.** Amendment of Section 41-9-345 of the Code of Alabama 1975. Section 41-9-345 of the Code of Alabama 1975 is hereby amended to read as follows:

Section 41-9-345. Employees.

The commission may hire such laborers, artisans, caretakers, technicians, stenographers and administrative employees and supervisory and professional personnel as may be necessary or advisable for the carrying out in the most efficient and beneficial manner of the purposes and provisions of this article; and may at its discretion offer to its employees any benefits offered to employees of the state of Alabama.

**Section 3.** Amendment of Section 41-9-347 of the Code of Alabama 1975. Section 41-9-347 of the Code of Alabama 1975 is hereby amended to read as follows: Section 41-9-347. Commission

to establish, operate, etc., memorial park and acquire, exhibit, etc., battleship USS Alabama.

The commission created under this article shall itself establish, operate and maintain a state memorial park to honor the Alabamians who participated so valiantly in all armed conflicts of the United States, which shall be under the exclusive management and control of the commission as a separate agency of the state government as provided for in this article, the principal purpose and function of which shall be to acquire, transport, berth, renovate, equip, maintain and exhibit the battleship USS Alabama as a permanent public memorial.

**Section 4.** Amendment of Section 41-9-355 of the Code of Alabama 1975. Section 41-9-355 of the Code of Alabama 1975 is hereby amended to read as follows:

Section 41-9-355. Loan from state docks department; commission may borrow from banks pending such loan and pledge loan as security.

(a) At such time as existing revenue bond covenants of the Alabama state docks department are satisfied as a result of any refunding of revenue bond issues of the Alabama state docks department that are outstanding as of August 1, 1963, the Alabama state docks department shall loan \$50,000.00 to the USS Alabama battleship commission from the trust fund that will be released to the Alabama state docks department as a result of refunding. This loan shall be repaid to the Alabama state docks department from the proceeds of the first revenue issue authorized under this article.

Pending said loan from the Alabama state docks department from the released trust fund, the USS Alabama battleship commission is hereby authorized to borrow from any bank or banks in the state of Alabama such sums up to \$50,000.00 as are needed to carry out the purposes of this article. The USS Alabama battleship commission may pledge as collateral for this loan or loans the above described loan that will be received from the Alabama state docks department.

(b) Having issued no bonds to the date of this amendment and having no intentions to do so, the \$50,000.00 outstanding indebtedness to the Alabama state docks department is hereby forgiven.

**Section 5.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws in conflict herewith are hereby repealed.

**Section 7.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-704

H. 136—Rep. Marietta

AN ACT

To provide for the filing for record and the preservation of all orders and decrees made and entered by any Judge of the Circuit Court of the 13th Judicial Circuit.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In the 13th Judicial Circuit of Alabama, all orders and decrees may be made and entered by Circuit Judges sitting and for said circuit on a sheet or sheets now commonly called trial sheets or case action summary sheets. There shall be a trial sheet or case action summary sheet or sheets for each case docketed in such courts properly identified by the style of the case and a case number.

**Section 2.** After all orders and decrees have been made and entered, in any case, by the Circuit Judge or Judges sitting in and for such circuit, the Clerk of the Circuit Court of such circuit shall file such sheets or copies thereof in numerical order in well bound books labeled "Minute Books" and such judgments or decrees shall have the same force and effect as Minutes of the Circuit Court of said circuit prior to the passage and approval of this act.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall be retroactive to January 1, 1982, and shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-705

H. 163—Rep. Turnham

AN ACT

Relating to the Alabama Uniform Certificate of Title and Antitheft Act; to amend Section 32-8-41, Code of Alabama 1975, so as to eliminate the requirement of the



state department of revenue to issue a nontransferable duplicate certificate of title for mailing to the owner to serve as a permit for the operation of a motor vehicle; and to amend Section 32-8-38, Code of Alabama 1975, so as to provide that the owner's permit copy of the application for certificate of title be retained by the owner as a nonnegotiable document as evidence of ownership and as a permit for the operation of a motor vehicle in order to eliminate the use of a form that duplicates the effects of another form.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 32-8-38 of the Code of Alabama 1975, is hereby amended to read as follows:

"Section 32-8-38. (a) The rules and regulations promulgated by the department shall make suitable provisions for the use by an applicant of the duplicate copy of his application for a certificate of title to serve as a permit for the operation of the motor vehicle described in the application until the department either issues the certificate of title of such motor vehicle or refuses to issue the certificate; and every designated agent receiving an application for the certificate of title, when the provisions of this chapter have been otherwise complied with, shall deliver to the applicant the duplicate copy of his application which shall contain a suitable permit for the purposes mentioned in this subsection. After the certificate of title is issued, the owner's permit copy of the application for this certificate of title shall continue to serve as evidence of ownership and as a permit for the operation of the vehicle.

"(b) In the event the department refuses to issue the certificate of title, the applicant shall, immediately upon receiving written notice from the department that such certificate will not be issued for the reason or reasons stated in the notice, deliver or mail to the department by registered or certified mail the duplicate copy of his application containing the permit mentioned in subsection (a) of this section and the current license tag which was issued for the vehicle; and the motor vehicle described in said application shall not be operated on the highways or other public places of this state after the applicant receives notice that the certificate will not be issued unless its operation is subsequently authorized by the department either by the issuance of a new permit or certificate of title. If for any reason the said duplicate copy of the application for certificate of title and the current license tag which were issued for the vehicle in question are not received by the department within 10 calendar days after the department mails written notice to the applicant that it will not issue the certificate of title applied for, the department, or, at the request of the department, any state highway patrolman, sheriff or other peace officer of this state is authorized and empowered to and shall require and compel the surrender of said duplicate copy of the application for certificate of title and the said current license tag; and the department, after it obtains possession of said duplicate

copy of application for certificate of title and said current license tag, is authorized to retain same until it is satisfied that said applicant is entitled to receive a certificate of title to the vehicle in question."

**Section 2.** Section 32-8-41, of the Code of Alabama 1975, is hereby amended to read as follows:

"Section 32-8-41. The certificate of title shall be mailed to the first lienholder named in it or, if none, to the owner.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-706

H. 546—Reps. Carothers, Mathis,  
and Beasley

### AN ACT

To provide for the filing for record and the preservation of all orders and judgments made and entered by any judge of the circuit court of the 20th Judicial Circuit of Alabama, and to provide that such judgments or orders shall have the same force and effect as minutes of the circuit court of said circuit prior to the passage and approval of this act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That in the 20th Judicial Circuit of Alabama, all orders and decrees may be made and entered by circuit judges sitting in and for said circuit on a sheet or sheets now commonly called case action summaries and that there shall be a case action summary for each case docketed in such courts properly identified by the style of the case and a case number.

**Section 2.** That after all orders and judgments have been made and entered, in any case, by the circuit judge or judges sitting in and for such circuit, the clerk of the circuit court of such circuit shall file a copy of such sheets in numerical order in well bound books labeled "Minute Books" and such judgements or orders shall have the same force and effect as minutes of the circuit court of said circuit prior to the passage and approval of this act.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-707

H. 580—Rep. Dutton

AN ACT

Relating to Lawrence County; providing certain additional compensation for the members of the board of registrars to be paid from the county general fund.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any compensation heretofore provided by law for the members of the board of registrars in Lawrence County, each member of such board shall be entitled to a \$10.00 per meeting day increase in such compensation with such increase to be paid in the usual manner from the county general fund.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-708

H. 581—Rep. Dutton

AN ACT

Relating to Lawrence County, to amend Act 79-86, H. 50, 1979 Regular Session (Acts of 1979, p. 110), so as to grant exclusive control of the pistol permit fee fund to the sheriff.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 of Act 79-86, H. 50, 1979 Regular Session (Acts of 1979, p. 110) is hereby amended to read as follows:

"Section 1. In Lawrence County the issuance of a permit to carry a pistol in a vehicle or concealed on or about the person as provided in Section 13-6-155, Code of Alabama 1975, shall be ten dollars, which shall be collected by the sheriff of the county and deposited in the county treasury. Such fee shall be credited to a special fund or account in the county treasury and shall be used exclusively by the sheriff for law enforcement purposes and in the discharge of the sheriff's office as the sheriff sees fit. The sheriff shall be authorized to withdraw money from said fund for the purposes provided for by this act without the approval of the county commission or any other county official."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-709

H. 617—Reps. Starkey, Goodwin,  
and Clark (D)

### AN ACT

Relating to Lauderdale county; to amend further Section 2 of Act No. 88, S. 181, 1959 Regular Session (Acts 1959, p. 509), which act provides for the county law library, so as to provide further for the collection of court costs for the maintenance of said library.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 88, S. 181, 1959 Regular Session (Acts 1959, p. 509), is hereby amended further to read as follows:

"Section 2. In order to provide a special fund for the maintenance of said library, there shall be taxed as cost:

"The sum of one dollar in each misdemeanor case or case involving the violation of a municipal ordinance other than an ordinance relating to parking vehicles filed in a municipal court;

"The sum of four dollars in each criminal case, quasi-criminal case or civil case filed in the district court, and in each criminal

case or quasi-criminal case involving a misdemeanor filed in, arising in, or brought by appeal, certiorari or otherwise to the circuit court of Lauderdale County;

“The sum of four dollars in each criminal or quasi-criminal case involving a felony and in each civil action, proceeding on a forfeited bail bond, or proceeding on a forfeited bond given in connection with an appeal from a judgment of conviction in any inferior court to the circuit court of Lauderdale County, hereafter filed in, arising in, or brought by appeal, certiorari or otherwise to the circuit court of Lauderdale County.

“Such costs shall be collected as other cost in such courts are collected and shall be paid by the magistrate, clerk of the court or registers thereof, as the case may be, to the Lauderdale County Law Library Fund of Lauderdale County, Alabama.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-710

H. 645—Reps. Carothers, Beasley,  
and Mathis

## AN ACT

Relating to Houston County; providing an appropriation from the county general funds or any available funds in the county treasury for the purposes of clean-up and removal of debris from fire damage to certain private property for a specific period retroactively to October 1, 1979; and providing relief to the Houston County Commission for causing its road department to clean-up such debris in error.

WHEREAS, fire damage to private property can create a severe safety hazard and the county commission has certain responsibility to protect its citizens; now therefore,

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Houston County, the county commission shall be relieved of erroneously, and in good faith, directing its county road department to clean up and remove debris from fire damage to certain private property for the specific period October 1, 1979, through September 30, 1982. Any such actions and payments made pursuant thereto during such period are hereby ratified and confirmed.

**Section 2.** Any cost incurred as a result of said clean-up and removal of fire damage debris by the county road department, which

the county commission in its discretion believe is a safety hazard and made pursuant to actions of good faith by the Houston County Commission are hereby ratified and confirmed and repayment by such members of the commission from October 1, 1979, through September 30, 1982, is hereby relieved and such costs shall be payable from the Houston County general funds or any other available county funds.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-711

H. 706—Rep. Rains

### AN ACT

To alter or rearrange the boundary lines of the City of Albertville, Marshall County, Alabama, so as to include within the corporate limits of said city all territory now within such corporate limits and also certain other territory contiguous thereto, in Marshall County, Alabama.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Albertville, Marshall County, Alabama, be, and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Albertville, Alabama, and in addition thereto the following described territory:

SE 1/4, of the SE 1/4, SW 1/4 of the SE 1/4, NE 1/4 of the SE 1/4 and the NW 1/4 of the SE 1/4 of Section 20 south, Range 4 East and containing 160 acres.

All of Section 21, except the NW 1/4 of the NW 1/4, Township 9 South, Range 4 East and containing 600 acres.

All of Section 28, Township 9 South, Range 4 East and containing 640 acres.

NE 1/4 of the NE 1/4, NW 1/4 of the NE 1/4, NE 1/4 of the NW 1/4, SW 1/4 of the NW 1/4, SE 1/4 of the NW 1/4, SW 1/4 of the NE 1/4, SE 1/4 of the NE 1/4 Section 29, Township 9 South, Range 4 East and containing 280 acres.

This being a total of 1680 acres.

**Section 2.** That this act shall become effective upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approval May 29, 1985

Time: 8:00 P.M.

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Act No. 85-712

H. 782—Rep. Jenkins

### AN ACT

Relating to St. Clair County; abolishing the office of constable in such county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The office of constable is hereby abolished in St. Clair County.

**Section 2.** Any person now serving in such office in St. Clair County shall be entitled to any vested rights accrued.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** The provisions of this act shall become effective sixty days after its passage and approval by the Governor.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-713

H. 807—Rep. Mikell

### AN ACT

Relating to Elmore County; to amend Act 84-656, H.B. 973, 1984 Regular Session, pertaining to the election of county commissioners, so as to provide for said election by districts.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 3 of Act 84-656, H.B. 973 of the 1984 Regular Session, is hereby amended to read as follows:

“Section 3. Beginning with the next term of office, each member of the Elmore County Commission shall represent a separate district. Only the qualified electors residing in a district may vote to elect the commissioner representing said district. No person shall be eligible as a candidate for county commissioner unless he is a bona fide resident of the district he seeks to represent. Each member of the county commission must reside in the district he represents during his term of office.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-714

H. 810—Rep. Dutton

### AN ACT

Relating to Lawrence County; providing for a board of trustees for the Jesse Owens Memorial Park in said county; providing for the terms of the members of such board and prescribing their duties and responsibilities.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created and established a board of trustees for the Jesse Owens Memorial Park in Lawrence County, Alabama. Such board shall be composed of seven members who shall be appointed by the Lawrence County legislative delegation no later than thirty (30) days after the effective date of this act. Such members shall serve for terms of six years on such board and shall be eligible for reappointment upon the expiration of their respective terms. The primary duty and responsibility of such board shall be the receipt and disbursement of all funds used for the operation and management of the Jesse Owens Memorial Park. As soon as such board members have been appointed, as herein provided, the Lawrence County legislative delegation shall set the date for an organizational meeting for such board at which such board shall select from its membership a chairperson and a vice-chairperson who shall retain such positions for the remainder of their terms on such board. Thereafter, such board shall meet at least once every two months on a regular basis



and in special meetings as may be called from time to time by the chairperson.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-715

H. 812—Rep. Dutton

### AN ACT

Relating to Lawrence County; to provide a procedure for handling cases involving invalid personal checks given for licenses, and the voiding of such licenses; and to repeal Act No. 79-399, H. 618, 1979 Regular Session.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall apply to Lawrence County.

**Section 2.** In cases where a personal check given for a license is found to be noncollectible for any reason, the tax assessor will notify the license inspector, who will make a reasonable attempt to retrieve the license in question. In the event that the license cannot be retrieved, the license inspector will so state and such statement shall constitute authorization for the probate judge to void any license in question. Once such license has been voided, the tax assessor will receive credit for the cost of the license plus the issuance fee. The appropriate state office will mark the records pertaining to the void license and, upon inquiry by law enforcement agencies, will notify said agencies that the party in question is operating under a void license. All violations will be prosecuted in accordance with current law.

**Section 3.** The provisions of this act are supplemental. It shall be construed in *pari materia* with other laws relating to such matters; however, those laws or parts of laws which are in direct conflict or inconsistent herewith are hereby repealed, and specifically Act No. 79-399, H. 618, 1979 Regular Session, is hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-716

H. 811—Rep. Dutton

### AN ACT

Relating to Lawrence County; allowing the Department of Conservation and Natural Resources to regulate the use of dogs and/or buck shot in shotguns in deer hunting outside of wildlife management hunting areas and repealing Act No. 80-349, H. 972, 1980 Regular Session.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Department of Conservation and Natural Resources shall regulate the use of buck shot in shotguns and/or dogs used to hunt deer in Lawrence County during the legal hunting season on lands outside of any wildlife management hunting area located in the county.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed and specifically Act No. 80-349, H. 972, 1980 Regular Session is hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-717

H. 813—Rep. Dutton

### AN ACT

Relating to Lawrence County; to create a motor vehicle license division within the tax assessor's office for the issuance of motor vehicle licenses; to provide for the selection of personnel for such license-issuing division; to provide certain duties for the division; to provide for an optional procedure for the renewal of motor vehicle licenses in the county by mail; to authorize certain additional fees and cost pursuant to such system of renewal of motor vehicle licenses by mail; such fees shall be set by the county commission from time to time to pay the cost of mailing tags or decals; to prescribe more convenient and efficient procedures for assessing and collecting of

certain taxes; the issuance of motor vehicle licenses by the tax assessor's office and to transfer certain duties now performed by the probate judge and tax collector to said tax assessor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created within the tax assessor's office of Lawrence County a license division which shall issue all motor vehicle licenses issued through the tax assessor's office. The county commission shall furnish suitable quarters and provide the necessary forms, books, stationery, records, equipment and supplies, except such stationery forms and supplies as are furnished pursuant to law by the state department of finance or the state comptroller. The county commission shall also provide such clerks, and other assistants for the tax assessor as shall be necessary from time to time for the proper and efficient performance of the duties of his office. The tax assessor shall have a chief clerk for the assessment division and chief clerk for the motor vehicle license division. The tax assessor shall have authority to employ such clerks, and other assistants, and to fix their compensation; however, the number and compensation of such clerks and other assistants shall be subject to the approval of the county commission. The compensation of the clerks and assistants shall be paid out of the general fund of the county in the same manner as other county employees are paid.

**Section 2.** The tax assessor shall perform all duties relating to the issuing of licenses on motor vehicles in the county which have heretofore been performed by the probate judge and tax collector. The probate judge and tax collector of Lawrence County are hereby relieved of all duties and responsibilities relative to the issuance of licenses and collection of certain monies on such motor vehicles. The tax assessor shall receive the commissions and fees now allowed the probate judge and tax collector for performing these functions, and such fees and commissions shall be remitted to the county general fund. Reporting and remitting of such monies shall be made at the same time as other reports and remittances are now made by the tax assessor.

**Section 3.** The tax assessor shall keep at all times an accurate record of all motor vehicle licenses received by him from the state comptroller and of the disposition made of them, of all monies received, and of the licenses issued by him. He shall report to the state comptroller at the same time in the same manner that other officials with said duties are required to do under the general law. All unissued licenses and the stubs or duplicates or carbon copies of licenses issued shall be accounted for in the same manner that said officials are required to account for by law.

**Section 4.** Except as hereinafter provided, the tax assessor shall be entitled to charge and collect the same fees that are provided for

by law. For the performance of duties relative to the recording of the transfer of the ownership of motor vehicles as prescribed in the Code of Alabama 1975, said tax assessor shall charge and collect a fee of \$1.00. All such fees shall be the property of the county and shall be paid to the general fund of the county. Refunds for licenses issued by mistake or fact of law shall be made under the conditions and in the manner prescribed by the Code of Alabama 1975.

**Section 5.** To prevent motor vehicles from escaping taxation and to provide for a more efficient procedure for assessment and collection of taxes due on same, no licenses shall be issued to operate motor vehicles on the public highways of this state, nor shall any transfer be made by the tax assessor until the ad valorem tax on such vehicles shall have been paid to the county for the preceding year as evidenced by receipt from the said tax assessor. Every person, firm or corporation driving or owning a motor vehicle who desires to operate a motor vehicle on the public highways of Alabama shall first return such motor vehicle for ad valorem taxation purposes to said tax assessor who shall issue a certificate of assessment on a form prescribed by the state department of revenue, shall collect the taxes shown thereon, and shall make a duplicate of the tax receipt and keep same on file in his office. The license tag shall be evidence of the payment of the license and ad valorem tax due as provided under this act.

**Section 6.** Before any vehicle can be assessed, the tax assessor shall be furnished the tag number presently on the vehicle unless such vehicle is new, in which case said tax assessor shall be furnished a bona fide bill of sale from the dealer showing when the vehicle was bought new. In the case of a used car brought into the state from a state which provides that upon sale or transfer of the motor vehicle the tags are either surrendered to an appropriate authority or subsequently reissued by the seller, said tax assessor shall be furnished a bona fide certificate of title properly assigned which shows when the car was sold to an individual, firm, corporation or association, living or operating in this state. If such tag number or bill of sale or certificate of title is not furnished, the vehicle will be presumed to have been in the state the entire year for which taxes are being assessed. Those motor vehicles brought into the state during any tax year and new motor vehicles for which licenses have never been issued that have been sold from the stock of a dealer during any tax year, shall be subject to taxation as if they had been held or owned in the state on the first day of October.

**Section 7.** The tax assessor may, at his discretion, mail an application for renewal of licenses to whom such license has been previously issued, such renewal forms required to be returned prior to the expiration date of the license. Such renewal forms may be in

post card form and with sufficient information thereon to adequately identify and process such renewal. The signature of the licensee thereon and proper remittance shall constitute sufficient authority for the tax assessor to issue such license and return to the licensee by mail. There is hereby established a fee to be entitled "Mail Order Fee" which shall be set from time to time by the county governing body to pay the cost of the mailing procedure herein provided, and such fee shall be collected by the tax assessor at the time of issuance and paid over to the general fund of the county as are other fees and commissions.

**Section 8.** The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 9.** All laws or parts of which conflict with this act are hereby repealed.

**Section 10.** This act shall become effective October 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-718

H. 816—Rep. Martin

### AN ACT

To alter, rearrange and extend the boundary lines and corporate limits of the municipality of Decatur, in Morgan County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the municipality of Decatur in Morgan County are hereby altered, rearranged and extended so as to include within the corporate limits of said municipality, in addition to the lands now included, all of the following territory, to-wit:

Lots 1-10 of Crawford Addition, Morgan County, Alabama, as shown by Map of Record in the Office of Judge of Probate of Morgan County, Alabama, in Map Book 4 at Page 30.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-719

H. 821—Rep. Dutton

## AN ACT

To provide for supplemental expense allowances for the district attorney of the 36th judicial circuit and the district judge of Lawrence County.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The district attorney of the 36th judicial circuit shall be entitled to a supplemental allowance, paid from the county treasury of the county composing such judicial circuit, in a sum equal to the supplemental allowance paid from county funds to the district attorney of the eighth judicial circuit.

**Section 2.** The district judge of Lawrence County shall be entitled to a supplemental expense allowance, paid from the county treasury of Lawrence County, in a sum equal to the supplemental allowance paid from county funds to the district judge of Morgan County.

**Section 3.** Such supplemental allowances shall be in lieu of any other supplemental allowances paid by the county, and shall be paid in the same manner that supplemental allowances for those offices in the eighth judicial circuit and Morgan County are paid.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-720

H. 830—Rep. Dutton

## AN ACT

Relating to Lawrence County; providing a certain expense allowance for the county superintendent of education.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to a salary now provided by law, the county superintendent of education in Lawrence County, Alabama, shall be entitled only to reimbursement from the county board of

education for those actual expenses incurred by such superintendent in the performance of official duties. Any claim for such reimbursement shall be verified and supported by receipts and such board shall not disburse any expense monies which are not supported by proper receipts. The superintendent shall also be furnished not more than one automobile for each term of office. This automobile may be used for official duties only.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-721

H. 852—Reps. Coleman and Rains

### AN ACT

Relating to Marshall County; to amend Section 23, of Act No. 633, H. 1248, 1976 Regular Session of the Alabama Legislature (1976 Acts, p. 870), entitled, "An Act Relating to Marshall County; abolishing the Commission on Government and Finance of Marshall County and creating in lieu thereof the Marshall County Commission; providing for the election of the members of the commission, prescribing their qualifications, terms, and compensation; providing for the organization, powers, duties, jurisdiction and function of the commission and the authority and duty of its members," so as to provide further for the powers, duties, jurisdiction and function of the Marshall County Commission.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 23 of Act No. 633, H. 1248, 1976 Regular Session of the Alabama Legislature (1976 Acts, p. 870), entitled, "An Act Relating to Marshall County; abolishing the Commission on Government and Finance of Marshall County and creating in lieu thereof the Marshall County Commission; providing for the election of the members of the commission, prescribing their qualifications, terms, and compensation; providing for the organization, powers, duties, jurisdiction and function of the commission and the authority and duty of its members," is hereby amended to read as follows:

"Section 23. Work in Municipalities. No work shall be authorized or performed by the commission or any member of the commission

for any municipality of the county (except for municipal school boards as provided in Section 22) having a population of more than 1250 persons, requiring the use of county equipment, materials, supplies or labor, unless such work is first authorized pursuant to a written contract between the municipality and the commission under which the municipality agrees to pay the full cost of labor, materials, and supplies used in such work. Any contract so agreed upon must be approved at a regular session of the commission and signed by a majority of the commission including the chairman."

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-722

H. 853—Reps. Coleman and Rains

### AN ACT

Relating to Marshall County; creating the Marshall County Commission Reapportionment Study Committee.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby established in Marshall County, a Committee to be known as The Marshall County Commission Reapportionment Study Committee, hereinafter called "the Committee." The Committee shall be composed of a total of nine members, with each of the members of the Marshall County Commission appointing two members from his district and with the chairman of the commission appointing one member from the county at-large. The chairman of the Committee shall be elected from among its members and shall preside over all meetings. The Committee shall make its own rules for the conduct of business. The initial meeting shall be held at the call of the chairman. Members of the Committee shall serve without compensation.

The purpose of the Committee shall be to study reapportionment of the county commission districts and report its recommendations for reapportionment to the Marshall County Commission, at which time the Committee shall be discharged of any further responsibilities or duties and this act shall become null and void.



**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-723

H. 864—Rep. Kvalheim

### AN ACT

Relating to Mobile County; altering, rearranging and extending the boundary lines and corporate limits of the City of Mobile.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The boundary lines and corporate limits of the City of Mobile in Mobile County are hereby altered, rearranged and extended so as to include within the corporate limits of said city, in addition to the lands now included, all of the following territory situated in Mobile County, to-wit:

#### AREA 1:

The North one-half of the Southwest one-quarter of Section 36, Township 3 South, Range 2 West; the Southeast one-quarter of the Southwest one-quarter of Section 36, Township 3 South, Range 2 West; the West one-half of the West one-half of the Southeast one-quarter of Section 36, Township 3 South, Range 2 West.

#### AREA 2:

The North one-half of Section 35, Township 3 South, Range 2 West.

All of the above described areas being situated in Mobile County, Alabama.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-724

H. 896—Reps. Rains and Coleman

### AN ACT

To alter or rearrange the boundary lines of the City of Albertville, Marshall County, Alabama, so as to include within the corporate limits of said City all territory

now within such corporate limits and also certain other territory contiguous thereto, in Marshall County, Alabama; providing for an advisory referendum on the alteration of the said boundary lines.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** That the boundary lines of the City of Albertville, Marshall County, Alabama, be and the same are hereby altered or rearranged so as to include all of the territory heretofore encompassed by the corporate limits of the City of Albertville, Alabama, and in addition thereto the following described territory:

The SE 1/4 of the SE 1/4, SW 1/4 of the SE 1/4, NE 1/4 of the SE 1/4, NW 1/4 of the SE 1/4, SE 1/4 of the SW 1/4, SW 1/4 of the SW 1/4, NW 1/4 of the SW 1/4, NE 1/4 of the SW 1/4, SE 1/4 of the NW 1/4, NE 1/4 of the NW 1/4, NW 1/4 of the NE 1/4, SW 1/4 of the NE 1/4, SE 1/4 of the NE 1/4, NE 1/4 of the NE 1/4 in Section 1, Township 9 South, Range 4 East, Marshall County, Alabama.

The SE 1/4 of the SE 1/4, SW 1/4 of the SE 1/4, NW 1/4 of the SE 1/4, NE 1/4 of the SE 1/4, in Section 2, Township 9 South, Range 4 East, Marshall County, Alabama.

Also the NE 1/4 of the NE 1/4, E 1/2 of the NW 1/4 of the NE 1/4 in Section 11, Township 9 South, Range 4 East, Marshall County, Alabama.

Also the SE 1/4 of the SE 1/4, NE 1/4 of the SE 1/4, SE 1/4 of the NE 1/4, NE 1/4 of the NE 1/4, NW 1/4 of the NE 1/4, SW 1/4 of the NE 1/4, SE 1/4 of the NW 1/4, NE 1/4 of the NW 1/4, SW 1/4 of the NW 1/4, NW 1/4 of the NW 1/4 of Section 12, Township 9 South, Range 4 East, Marshall County, Alabama.

Also, beginning where the West margin of Corbinville Road interesects the South boundary line of the SE 1/4 of the SW 1/4, Section 36, Township 8 South, Range 4 East; thence West 577 feet; thence North 360 feet; thence East 349 feet; thence North 50 feet; thence in a Northwesterly direction parallel with the Corbinville Road a distance of 665 feet; thence in a Northeasterly direction a distance of 140 feet to a point on the West margin on Corbinville Road; thence in a Southeasterly and Southwesterly direction along West margin of Corbinville Road a distance of 1216 feet to the point of beginning, lying and being in Marshall County, Alabama. This is also known as the D.D. Colvin Land Division to Marshall County, Alabama.

Containing in the aggregate 1187 acres, more or less.

**Section 2.** The municipal governing body shall call for an advisory referendum, by the qualified electors, on the question of altering the boundaries of the City of Albertville, upon proper notice

thereof. Such election shall be conducted, the votes canvassed and votes reported in the same manner as provided for all other municipal elections. The ballot for such election shall be stated substantially as follows:

“Do you favor altering the boundaries of the City of Albertville as described in the Act which H.B.\_\_\_\_\_, Regular Session 1985 became?

Yes\_\_\_\_\_

No\_\_\_\_\_”

If the majority of the qualified electors voting thereon vote in favor of such bill, then the provisions of this act shall become effective; if the majority vote against such bill, then the provisions of this act shall become null and void and of no force and effect.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-725

H. 898—Rep. Thomas

### AN ACT

Relating to Lowndes County; to authorize the county board of education to appoint the superintendent of education for the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Lowndes County, the county board of education is hereby authorized to appoint a superintendent of education at the expiration of the term of the present superintendent or if a vacancy occurs in the office. Said superintendent shall be appointed to serve at the pleasure of the county board of education.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-726

H. 899—Rep. Thomas

## AN ACT

Relating to Lowndes County; to amend Section 2 of Act No. 83-425, S. 360, of the 1983 Regular Session (Acts 1983, p. 604), relating to the distribution of the beer tax levied by Act No. 82-344, H. 165, Regular Session 1982, (Acts 1982, p. 473), so as to provide further for the distribution thereof.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 2 of Act No. 83-425, S. 360, of the 1983 Regular Session (Acts 1983, p. 604) is hereby amended to read as follows:

“Section 2. Section 1 (c)(2)(xviii) of Act No. 82-344, H. 165, Regular Session 1982 (Acts 1982, p. 473) to the contrary notwithstanding, in Lowndes County the entire proceeds of the tax collected and paid to the county pursuant to said act shall be paid to the Lowndes County Commission who, after distributing \$800.00 per month, from the proceeds of the tax to the judge of probate, shall distribute the tax as follows:

“(A) One-cent per container shall be distributed to each municipality as each municipality’s population is in proportion to the total population of all municipalities located within the county.

“(B) One-cent per container to be distributed as follows:

“(1) One-tenth to the County Board of Education.

“(2) One-tenth to the District Court Judge as an expense allowance.

“(3) Four-fifths to the County Commission.

“(C) The remainder to be equally divided between the Public School Fund and the Juvenile Services Trust Fund Account.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-727

H. 906—Rep. Turnham

## AN ACT

To amend Section 16-48-12, Code of Alabama 1975, which provides for the duties of the police officers at Auburn University, so as to provide further for the powers of said officers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 16-48-12, Code of Alabama 1975, is hereby amended to read as follows:

§16-48-12.

“(a) The president of Auburn University, with the approval of the board of trustees, is hereby authorized to appoint and employ suitable persons to act as police officers to keep off intruders and prevent trespass upon and damage to the property and grounds of the university. Such persons shall be charged with all the duties and invested with all the powers of police officers and may eject trespassers from the university buildings and grounds, and may, without a warrant, arrest any person guilty of disorderly conduct or of trespass upon the property of the university, or for any public offense committed in their presence, and carry them before the nearest district court or municipal court charged with the trial of such offenders, before whom, upon proper affidavit charging the offense, any person so arrested may be tried and convicted as in cases of persons brought before him on his warrant; and such officers shall have authority to summon a posse comitatus and may, with a warrant, arrest any person found upon or near the premises of the university charged with any public offense and take them before the proper officer.

“(b) The police officers provided for in this section shall cooperate with, and, when requested, furnish assistance of the regularly constituted authorities of the municipality of Auburn; and their jurisdiction and authority shall be coextensive with the corporate limits of the municipality.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-728

H. 949—Rep. Lauderdale

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AN ACT

Relating to Winston County; authorizing the levy of an additional county privilege, license, or excise tax on the sale, distribution, storage, use or other consumption of tobacco and certain tobacco products in such county; providing for the collection and enforcement of the tax, and appropriating the proceeds therefrom.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 1 through 7 and 10 of Act No. 873, House 1224 of the 1965 Regular Session (Acts 1965, page 1637) are hereby amended so as to read as follows:

“Section 1. The Winston County Commission is hereby authorized to impose upon every person, firm, or corporation who sells, stores, delivers, uses or otherwise consumes tobacco or certain tobacco products in Winston County a county privilege, license or excise tax in the following amounts:

“(a) Five cents (\$0.05) for each package of cigarettes, made of tobacco or any substitute therefor.

“(b) Two cents (\$0.02) for each cigar of any description made of tobacco or any substitute therefor.

“(c) Five cents (\$0.05) for each sack, can, package, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which is prepared in such manner as to be suitable for smoking in a pipe or cigarette.

“(d) Five cents (\$0.05) for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in such manner as to be suitable for chewing only and not suitable for smoking as described in subsection (c) of this section.

“(e) Five cents (\$0.05) for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor.

“Said five cents (\$0.05) on other tobacco products, privilege, license or excise tax shall include the one cent (\$0.01) tobacco tax authorized by Act 873, House 1224 of the 1965 Regular Session.

“Provided, however, when the license tax hereby required to be paid shall have been paid by a wholesaler or seller of cigarettes, cigars, snuff, smoking tobacco and like tobacco products, such payment shall be sufficient, the intent being that such license tax hereby required to be paid shall be paid but once on each package of cigarettes and on each cigar.

“Section 2. Every person, firm, corporation, club, or association that sells or stores or receives for the purpose of distribution in Winston County any cigarettes, cigars, snuff, smoking tobacco and like tobacco products shall add the amount of the license or privilege tax levied and assessed herein to the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, it being the purpose and intent of this provision that the tax levied is, in fact, a levy on

the consumer with the person, firm, corporation club or association, who sells or stores or receives for the purpose of distributing the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, acting merely as agent for the collection of the tax. The dealer, storer, or distributor shall state the amount of the tax separately from the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products, on all price displays, signs, sales or delivery slips, bills and statements which advertise or indicate the price of the cigarettes, cigars, snuff, smoking tobacco and like tobacco products. It shall be unlawful for any dealer, storer or distributor engaged in, or continuing in Winston County in, the business for which the tax is hereby levied, to fail or refuse to add to the sales price and collect from the purchaser the amount due on account, of the tax herein provided or to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption of the tax or any portion thereof.

"Section 3. The tax hereby authorized shall be paid by affixing stamps as is required for the payment of the tax imposed by section 40-25-1 through Section 40-25-28, Code of Alabama 1975. The State Department of Revenue shall have the same duties relative to the preparation and sale of stamps to evidence the payment of such tax that it has relative to the preparation and sale of stamps under those sections and may exercise the same powers and perform the same duties in the same manner relative to the collection of the tax hereby levied that it does relative to the collection of that tax.

"Section 4. The State Department of Revenue is hereby authorized to promulgate and enforce rules and regulations to effectuate the purposes of this Act. All such rules and regulations duly promulgated shall have the force and effect of law.

"Section 5. All laws, and rules and regulations of the department of revenue, relating to the manner and time of payment of the tax levied by Section 40-25-1 through Section 40-25-28, Code of Alabama 1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as fully as if set out herein.

"Section 6. The proceeds from the tax hereby authorized, less the actual costs of collection not to exceed five per centum (5%) shall be paid by the State Department of Revenue into the County general fund of Winston County to be expended at the discretion of the county commission.

"Section 7. (a) None of the provisions of this act shall be applied in such manner as to be in violation of the commerce or other clauses of the federal or state constitution. (b) This statute shall not be construed to apply to cigarettes, cigars, snuff, smoking tobacco

and like tobacco products stored by a wholesale dealer for the purpose of resale or reshipment outside of such counties which are actually resold or reshipped.”

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective on the first day of the month next succeeding the date of its enactment.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-729

H. 995—Rep. Richardson

### AN ACT

Relating to Jackson County and the alternative method of issuing license tags for motor vehicles and fees therefor; amending Section 5 of Act No. 80-453, S. 503, Regular Session 1980, (Acts 1980, p. 707), relating to the functions of the county commission in preparing and mailing out applications for such tags, so as to provide that the county commission may set a fee for the actual costs involved in such duties.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 5 of Act No. 80-453, S. 503, Regular Session 1980 (Acts 1980, p. 707) is hereby amended to read as follows:

“Section 5. The actual expense of preparing, posting, and mailing out of application forms shall be that of the county governing body for which such body may establish and collect a fee to cover the actual reasonable cost therefor. The county governing body shall also be responsible for any mistake made in the filling out of the application forms and neither the collector, assessor or probate judge shall be held accountable for errors made by county employees. Only car, pickups, and motorcycle tags may be ordered through mail.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.



Act No. 85-730

H. 1011—Reps. Carothers and Beasley

## AN ACT

Relating to Houston County; levying an additional ad valorem tax in the county to be deposited in the county general fund to be expended for industrial development and rural fire protection upon referendum approval of such levy by the qualified electors of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Houston County, Alabama, in addition to any and all other taxes heretofore levied, the county commission shall, by resolution, levy and impose an additional ad valorem tax in the amount of one mill on each dollar of taxable property in the county. The entire proceeds from such levy shall be deposited in the county general fund to be expended as follows: 1/3 to the Industrial Development Committee of the Chamber of Commerce, 1/3 to the Houston County Port Authority and 1/3 of such proceeds shall be expended for rural fire protection in the county. The additional taxes levied and imposed by this act shall become effective on October 1, 1986, upon referendum approval by the qualified electors of the county as provided by law and shall be collected at the same time and in the same manner as existing ad valorem taxes are collected.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-731

H. 1017—Reps. Britnell and Lauderdale

## AN ACT

Relating to the City of Bear Creek in Marion County; to alter the corporate boundaries so as to include additional lands within the corporate limits; and to provide for a referendum thereon.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The corporate limits and boundaries of the City of Bear Creek in Marion County are hereby altered, rearranged and extended so as to include within the corporate limits, in addition to the lands now included, all of the following territory:

SE 1/4 of Sec. 6, S 1/2 of Sec. 5, S 1/2 of Sec. 4, E 1/2 of Sec. 7, E 1/2 of Sec. 18, E 1/2 of Sec. 19, and all of Sections 8, 9, 16, 17, 20 and 21 all lying and being in Township 9 South, Range 11 West.

**Section 2.** The substantive provisions of this act shall become operative only if the act is approved by a majority vote of a group of electors which shall include all qualified electors of this state who own land in the described territory and all the qualified electors who reside within that part of the territory hereinabove described which is not presently included within the corporate limits of the City of Bear Creek, voting in a referendum election to be held at the next general election held statewide following passage of this act on May 14, 1985. The notice of the elections shall be given by the probate judge and the results thereof canvassed in the manner prescribed by law. The question shall be presented substantially as follows: "Shall Act No. \_\_\_\_\_ of the 1985 Regular Session of the legislature, which alters, rearranges and extend the corporate limits of the City of Bear Creek in Marion County, Alabama, be adopted?"

Yes\_\_\_\_\_ No\_\_\_\_\_."

If a majority of the votes cast in the election are "Yes," the provisions of this act shall become operative immediately. If the majority are "No," this act shall have no further effect.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-732

H. 1065—Reps. Ford, Junkins, and Bugg

AN ACT

Relating to the Sixteenth Judicial Circuit; providing for supplemental allowance, payable from the county general fund, for the circuit clerk of such circuit; and repealing conflicting

laws, relating to the compensation of the circuit clerk of the said judicial circuit; providing that such allowance shall be calculated on a certain percentage of the state compensation for such official; and providing for an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Any law to the contrary notwithstanding, in the Sixteenth Judicial Circuit the circuit clerk shall receive a monthly judicial supplement allowance in the amount of 2% of the annual total state compensation for circuit clerks. Such judicial supplement shall be paid, in equal installments, monthly from the general fund of the county treasury in the same manner as all other officers are paid.

**Section 2.** The judicial supplement prescribed in Section 1 of this act shall be in lieu of any and all other judicial supplemental compensation for said circuit clerk.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which relate to expense allowance for said circuit clerk of the Sixteenth Judicial Circuit are hereby repealed.

**Section 5.** This act shall become effective immediately upon the commencement of the next fiscal year of the county after passage of this act.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-733

H. 1074—Reps. Sasser and Flowers

#### AN ACT

Relating to Dale County; to provide for an increase in the salary of the tax assessor and tax collector; and to provide for an effective date of October 1, 1985.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Beginning October 1, 1985, at the commencement of a new term of office, both the tax assessor and the tax collector of Dale County shall receive an increase in salary in the amount of three thousand dollars (\$3,000.00). Said increase in salary shall be paid in addition to all other compensation now received by law and shall be paid out of the county general fund in periodic equal installments in the same manner other salary compensation is paid.

**Section 2.** This act shall become effective October 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-734

H. 1075—Reps. Sasser and Flowers

## AN ACT

Relating to Dale County; providing further for voter reidentification in such county; providing for additional periods of such registration retroactively to March 1, 1985; providing for a termination date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In addition to any and all other times provided by general law, the Dale County Board of Registrars may meet, from time to time from March 1, 1985, through December 15, 1985, as necessary for the purpose of purging registration lists and the names of all persons who have failed to reidentify themselves in the manner herein prescribed. Provided, however, that no extra meeting dates than now provided by law shall be used to implement the provisions of this act.

**Section 2.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 3.** The provisions of this act shall be effective retroactively to March 1, 1985. Provided, however, the provisions of this act shall terminate December 15, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-735

H. 614—Rep. Junkins

## AN ACT

Relating to Etowah County; to provide for the filing for record and the preservation of all final orders and judgments of the court in criminal cases made by any judge of the circuit court.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Etowah County all final orders and judgments of the court in criminal cases shall be entered by the circuit judges sitting in and for said county on a sheet or sheets separate from the case action summary sheets; these orders shall be properly identified by the style of the case and a case number.

**Section 2.** After all final orders and judgments of the court have been made on a sheet or sheets, in any case, by the circuit judge or judges sitting

in and for such county, the clerk of the circuit court of such county shall file copies of such sheets in numerical order in well bound books labelled "Minute Books" and such final orders and judgements of the court shall have the same force and effect as criminal minutes of the circuit court of said county prior to the passage and approval of this act.

**Section 3.** All laws or parts of laws which conflict with this are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-736

H. 547—Reps. Carothers, Beasley, and Mathis

### AN ACT

Relating to the 20th Judicial Circuit of Alabama; to provide that if a defendant in a criminal case enters a written plea of not guilty prior to his arraignment such plea shall constitute waiver of his right to have an arraignment at which he is present in person or represented by an attorney.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The provisions of this act shall apply only to the 20th Judicial Circuit of Alabama.

**Section 2.** If a defendant in a criminal case pending in a court of competent jurisdiction shall enter a written plea of not guilty at any time prior to the day of his arraignment such plea shall constitute a waiver of his right to have an arraignment at which he is present in person or at which he is represented by an attorney.

**Section 3.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 4.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-737

H. 579—Rep. Dutton

## AN ACT

Relating to Lawrence County; providing further for the compensation of election officials.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Lawrence County, each election official is hereby entitled to an additional compensation in an amount of \$10.00 per day for each day he works at the polls. This additional compensation shall be appropriated from the county general fund.

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-738

H. 603—Rep. Davis

## AN ACT

To amend Section 41-9-708, Code of Alabama 1975, relating to the Alabama Indian Affairs Commission, so as to give the Ma-Chis Lower Creek Indian Tribe representation on said commission and to authorize the commission to recognize certain additional tribes, bands or groups.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 41-9-708, Code of Alabama 1975, is hereby amended to read as follows:

“§41-9-708.

“(a) There is hereby created and established the Alabama Indian affairs commission, hereinafter called the commission, which shall be administered under the direction and supervision of the joint committee on administrative regulations, as provided by section 41-22-22.

“(b) The commission shall be composed of a least 11 members. All members of the commission must reside in Alabama. Members shall include a member of the state senate, appointed by the lieutenant governor, and a member of the house of representatives, appointed by the speaker of the house of representatives, seven Indian representatives from the seven tribes, bands, or groups in the state of

Alabama, and one member at large. The governor shall appoint seven Indian members from recommendations submitted by each of the seven Indian tribes, bands or groups, principally geographically located as follows: The Poarch Band of Creeks of Escambia county, one member; the Mowa Band of Choctaws of southwest Alabama, one member; the Star Clan of Muscogee Creeks of Pike county, one member; the Echota Cherokees of Alabama, one member; the Cherokees of northeast Alabama, one member; the Cherokees of southeast Alabama, one member; and the Ma-Chis Lower Creek Indian Tribe, one member. Each of the seven identified groups shall have one member. The commission shall appoint one Alabama resident, who is a member of a federally recognized Indian tribe, band or group, that is not a member of any tribe represented on this commission. The governor shall appoint one member at large, who may be Indian or non-Indian; provided, however, that the majority of the members of the commission shall always be Indian. All above stated tribes, bands, and groups shall be state recognized upon passage of this article. The commission shall have the power to recognize additional Indian tribes, bands or groups. The commission shall adopt appropriate procedure for such recognition process. Any recognized Indian tribe, band, or group shall be entitled to have one (1) representative on the Commission who shall be appointed for an initial term of three (3) years by the Governor and subject thereafter to the same requirements and privileges as specified in subsections (b) and (c) and any other applicable sections. Said member shall be granted the same voting powers accorded other members.

“(c) The commission shall elect a chairman of the commission from among its members. Members serving by virtue of their office within state government shall serve so long as they hold that office. The terms of office for all other members shall be for four years each, except for the initial appointments which shall be as follows: Four members for two years; two members for three years; and two members for four years. The initial term of office for persons who are granted membership upon the recognition of their tribe, band or group by the commission shall be as provided in subsection (b). The initial term and all subsequent terms of office of the member representing the Ma-Chis Lower Creek Indian Tribe shall be four years. Each member shall serve until his successor is appointed. Members shall be eligible for reappointment. Upon the death, disability, resignation, removal or refusal to serve of any member, the governor shall appoint a qualified member of that tribe, band or group to fill the unexpired term of office.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-739

H. 841—Rep. Mitchell

## AN ACT

Relating to Pickens County; to authorize the county board of education to provide for the substitution of other books or texts for the textbooks on the list of state-approved or state-adopted textbooks for use in the schools of the county.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Pickens County, the county board of education, upon recommendation of the county superintendent of education, may substitute other books or texts for use in the county schools under its jurisdiction for the textbooks on the list of state approved or state-adopted textbooks prescribed by the State Board of Education. Whenever books or texts are so substituted for the state-approved or state-adopted textbooks, such books or texts must be used by the teachers in such county school system in teaching any course or courses for which a substitution has been made. Provided, however, such county board of education or city board of education shall provide free textbooks to all grades which would be provided under the terms of applicable state law. Provided, however, no county or city board of education shall substitute books or texts or materials for the state-approved or state-adopted textbooks and materials, if such substitution would cause such county or city board of education to be unable to furnish free textbooks to all students in the system through the twelfth grade.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-740

H. 900—Rep. Thomas

## AN ACT

Relating to Lowndes County; creating a districting commission to establish district lines for the Lowndes County Commission and Lowndes County board of education; providing for the appointment of the members of the districting commission; providing for the number of districts; providing for the composition of the Lowndes County



board of education and Lowndes County Commission; and providing for election of members of the board of education and county commission from single-member districts.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In Lowndes County, there is hereby created a three member Lowndes County districting commission, hereinafter referred to as districting commission, to establish districts for the election of members of the Lowndes County Commission and the Lowndes County Board of Education. One member of the districting commission shall be appointed by the Lowndes County Board of Education, hereinafter referred to as board; one member shall be appointed by the Lowndes County Commission, hereinafter referred to as commission; and, one member shall be appointed by the state representative and state senator representing Lowndes County, hereinafter referred to as delegation. The board, commission and delegation may hereinafter be referred to as appointing authorities. If the board or the commission does not appoint its member to the districting commission within 45 days from the effective date of this act, the delegation shall make the appointments within ten days thereafter. Members of the districting commission shall be registered voters of the county and shall be over the age of 19 years. The commission and board shall provide any clerical, technical or other assistance needed by the commission.

**Section 2.** Within 120 days of all members being appointed, the districting commission shall adopt a plan to apportion the county into five (5) single-member districts. The apportionment plan, hereinafter called plan, shall be submitted to the board, commission and delegation within ten days after adoption. Unless the plan is rejected by resolution of each of the three appointing authorities within 35 days after the plan is adopted by the districting commission or unless the plan is superseded by legislative act, the plan becomes final. If the plan is rejected by a resolution of each of the appointing authorities, the districting commission shall submit, within 30 days, an additional plan for consideration. Once the plan becomes final, the districting commission shall cease to function. The plan shall be effective for the election of the members of the commission at the time of the next election for any member of the commission. The plan shall be effective for the election of the members of the board at the time of the next election for any member of the board.

**Section 3.** The Lowndes County Commission and the Lowndes County Board of Education shall consist of five members each which shall be residents of that district. One member shall be elected from each of the five districts for that body by the electors residing within the district. Each body shall select its chairperson from among its membership. The commission shall stagger the terms of the board

members so that after the initial election of all members, one member will be elected two years thereafter; two members will be elected four years thereafter; and two members will be elected six years thereafter.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-741

H. 814—Rep. Dutton

### AN ACT

Relating to Lawrence County; providing for a supplemental expense allowance for the court reporter of the Thirty-sixth Judicial Circuit; and providing such expense allowance shall be paid from the county treasury.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Each court reporter of the Thirty-sixth Judicial Circuit composed of Lawrence County shall be paid \$350.00 per month total expense allowance which shall be in addition to any and all other compensation provided for by law. Said expense allowances shall be paid out of the general fund of Lawrence County.

**Section 2.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 30, 1985

Time: 4:45 P.M.

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Act No. 85-742

H. 947—Reps. Martin, Drake, Smith, Bugg, Tanner, Onderdonk, Parker, Biddle, Lauderdale, Carter, Starkey, Moore, Clark (D), Goodwin, Albright, Grayson, Junkins,

Newman, Clark (J),  
 Richardson, Blake, Zoghby,  
 Spratt, Burke, Trammell,  
 Boles, Gray, Escott, White  
 (G), Ford, Harvey, Bowling,  
 White (L), Cosby,  
 Johnson (Roy), Warren,  
 Grouby, Flowers, Beasley,  
 Carothers, Hammett,  
 Kvalheim, Venable,  
 Johnson (RG), Laird,  
 Adams, Crow, Browder,  
 Gaston, Penry, Lindsey,  
 Mathis, McMillan, Harper,  
 Marietta, Turner, Blakeney,  
 and Holley

### AN ACT

Relating to victims of sexual abuse or sexual exploitation; to provide that court records of such victims shall not be open to the public; and to allow presiding circuit judges to formulate rules which limit the number of interviews or interrogations which can be conducted upon such victims under 12 years of age.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The presiding judge of a judicial circuit, after consultation with the district attorney for the judicial circuit may provide for reasonable limits on the number of interviews a victim of sexual abuse or exploitation, who is under 12 years of age, must submit to for law enforcement or other purposes. The judge shall, to the extent possible, protect the victim from the psychological damage of repeated interrogation while preserving the rights of the public, the victim, and the person charged with the violation.

**Section 2.** The court records of a child under the age of 18 years who is a victim of sexual abuse or exploitation shall not be open to the public, but shall be kept in the same manner as juvenile offender records are kept.

**Section 3.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 4.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 5.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-743

H. 939—Reps. Martin, Drake, Smith, Bugg, Parker, Tanner, Lauderdale, Onderdonk, Carter, Starkey, Moore, Clark (D), Goodwin, Albright, Grayson, Junkins, Newman, Clark (J), Biddle, Richardson, Blake, Zoghby, Burke, Trammell, Boles, Gray, Spratt, Johnson (Roy), Escott, White (G), Ford, Harvey, Bowling, White (L), Cosby, Warren, Grouby, Flowers, Kvalheim, Beasley, Carothers, Hammett, Venable, Gaston, Johnson (RG), Laird, Adams, Crow, Browder, Penry, Lindsey, Mathis, McMillan, Harper, Marietta, Turner, Blakeney, and Holley

### AN ACT

To provide procedures in criminal prosecutions involving the sexual exploitation of children and in other prosecutions for sex offenses wherein the alleged victim is a child under the age of 16, whereby the court may allow: leading questions at trial of any victim or witness who is under the age of 10; testimony of certain child victims and witnesses to be by videotaped deposition or by closed-circuit television equipment; to provide for the costs of making the videotapes of such depositions and for the use of closed circuit television equipment; to provide that the supreme court may adopt rules of procedure regarding the taking and use of videotaped depositions; to provide that such videotaped depositions shall be subject to protective orders of the court to protect the privacy of the victim or witness; to appropriate funds to the unified judicial system to furnish courts with necessary equipment to view the videotaped depositions; to permit the use of anatomically correct dolls or mannequins to assist an alleged victim or witness with the testimony; to provide procedures to ensure prompt trials in certain prosecutions; and to provide an effective date.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** In any criminal prosecution for a sexual offense wherein the alleged victim is a child under the age of 16 years and in any criminal prosecution involving the sexual exploitation of a child under the age of 16, the court may allow leading questions at trial by the prosecution or defense of any victim or witness in such case who is under the age of 10, if the court determines that the

allowance of leading questions will further the interests of justice. The court may on motion of the prosecution or the defense, or on its own motion, limit the scope and extent of any such leading questions.

**Section 2.** (a) In any criminal prosecution referred to in Section 1 of this Act, the court may, upon motion of the district attorney, for good cause shown and after notice to the defendant, order the taking of a videotaped deposition of an alleged victim of or witness to said crime who is under the age of 16 at the time of such order. On any motion for a videotaped deposition of the victim or a witness, the court shall consider the age and maturity of the child, the nature of the offense, the nature of testimony that may be expected, and the possible effect that such testimony in person at trial may have on the victim or witness, along with any other relevant matters that may be required by Supreme Court Rule. During the taping of videotaped depositions, the attorney of the parents of the child would be allowed to be present at the tapings. If the court orders that a deposition of the victim or witness shall be had as provided herein, the district attorney shall make all necessary arrangements to have the same videotaped.

Such deposition shall be taken before the judge in his chambers or in such other suitable location as the court may direct and shall be conducted in the presence of the district attorney, the defendant and his attorney, and such other persons as the court in its discretion may permit, taking into consideration the welfare and well-being of the alleged child victim or witness. Examination and cross-examination of the alleged victim or witness shall proceed at the taking of the videotaped deposition as though the alleged victim or witness were testifying personally in the trial of the case. The State shall provide the attorney for the defendant with reasonable access and means to view and hear the videotaped deposition at a suitable and reasonable time prior to the trial of the case. Objections to the introduction into the record of such deposition shall be heard by the judge in whose presence the deposition was taken, and unless the court determines that its introduction in lieu of the victim's or witness's actual appearance as a witness at the trial will unfairly prejudice the defendant, such videotaped deposition shall be entered into the record by the State in lieu of the direct testimony of the alleged victim or witness and shall be viewed and heard at the trial of the case.

(b) For the purposes of this section, "videotaped deposition" means the visual recording on a magnetic tape, together with the associated sound of a witness testifying under oath to be entered in the record in a judicial proceeding.

(c) The supreme court may adopt rules of procedure regarding the taking and use of videotaped depositions in criminal proceedings and juvenile cases, as well as for the transcribing of such in the event the case is thereafter appealed.

(d) All costs associated with the videotaping of a deposition ordered pursuant to this Act shall be paid by the State. The district attorney shall submit all such cost bills to the state comptroller for approval and payment from the fund entitled "court costs not otherwise provided for".

(e) All videotapes ordered pursuant to this Act shall be subject to any protective order of the court for the purpose of protecting the privacy of the victim of the offense.

**Section 3.** (a) In those criminal prosecutions set out in Section 1 of this Act, the Court may, on motion of the State or the defendant prior to the trial of the case, order that the testimony of any alleged victim of such crime or witness thereto who is under the age of 16 at the time of such order shall be viewed and heard at trial by the court and the finder of fact by closed circuit equipment. In ruling on such motion the court shall take into consideration those matters set out in Section 2 of this Act. If the court orders that such victim's or witness's testimony in court shall be by closed circuit equipment, the testimony shall be taken outside the courtroom in the judge's chambers or in such other suitable location designated by the judge. Examination and cross-examination of the alleged child victim or witness shall proceed as though he or she were testifying in the courtroom. Present in the room with the child during his or her testimony shall be the district attorney, the defendant and his attorney, and such other persons as the court in its discretion may permit taking into consideration the welfare and well-being of the child. Persons operating the closed circuit equipment shall do so, where practical, in an adjacent or nearby room or behind a screen or mirror that permits them to see and hear the child during the testimony, but which does not permit the child to view them. Suitable audio equipment shall be provided so as to permit the court to communicate with the parties and the witness throughout the testimony. The party making the motion that the testimony shall be by closed circuit equipment shall make all necessary arrangements regarding the equipment and the operation thereof during the course of the proceeding.

(b) All costs incurred by the district attorney to make it possible for the court and the trier of the fact to view the testimony of the victim by closed circuit equipment as provided in this Act shall be paid by the State. The district attorney shall submit all bills for such costs to the state comptroller for approval and payment from the fund entitled "court costs not otherwise provided for".

(c) Notwithstanding any other provision of law or rule of evidence, a child victim of sexual abuse or sexual exploitation, shall be considered a competent witness and shall be allowed to testify without prior qualification in any judicial proceeding. The trier of fact shall be permitted to determine the weight and credibility to be given to the testimony. The court may also allow leading questions of such child witnesses in the interest of justice.

**Section 4.** There is hereby appropriated from the state general fund the sum of \$104,400 to the Unified Judicial System to furnish courts with the necessary equipment to view videotaped depositions as provided for in this Act.

**Section 5.** In any criminal proceeding and juvenile cases wherein the defendant is alleged to have had unlawful sexual contact or penetration with or on a child, the court shall permit the use of anatomically correct dolls or mannequins to assist an alleged victim or witness who is under the age of 10 in testifying on direct and cross-examination at trial, or in a videotaped deposition as provided in this Act.

**Section 6.** In all criminal cases and juvenile proceedings involving offenses set out in Section 1 of this Act, wherein the victim hereof or a witness to the offense is under the age of 16 years, the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement in the proceedings. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

**Section 7.** The provisions of this Act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 8.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 9.** This act shall become effective on October 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

## HOUSE JOINT RESOLUTION

COMMENDING MS. EULENE HAWKINS UPON INITIATION OF THE EULENE HAWKINS SOCIAL WORK AWARD

AT TROY STATE UNIVERSITY IN RECOGNITION OF HER LIFETIME SERVICE TO THE STATE OF ALABAMA AND THE NATION.

WHEREAS, Ms. Eulene Hawkins is being recognized in 1985 by the Social Work Program at Troy State University through establishment of the Eulene Hawkins Social Work Award; and

WHEREAS, Ms. Hawkins, who holds the Master's degree in Social Work from Columbia University, has diligently worked to improve the community through her dedication and professionalism; and

WHEREAS, Ms. Hawkins has retired from the Department of Pensions and Security after many years of service; and

WHEREAS, Ms. Hawkins' dedication to professionalism is exhibited through her current tenure as Executive Director of the Alabama Chapter-National Association of Social Workers; and

WHEREAS, the profession of Social Work is enhanced by Ms. Hawkins' continued emphasis upon providing quality social work education; and

WHEREAS, the Social Work Program at Troy State University and other social work educational programs have greatly benefitted from Ms. Hawkins' knowledge, skills, and generosity of service to the profession; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we pay tribute to Ms. Eulene Hawkins for outstanding service to the state and the profession of Social Work.

BE IT FURTHER RESOLVED, That we wish Ms. Hawkins much happiness and satisfaction in all her future endeavors.

RESOLVED FURTHER, That in token of our gratitude for her instrumentality in the establishment of quality social work education programs in Alabama, a copy of this resolution shall be presented to Ms. Hawkins.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-745

H.J.R. 357—Reps. Carter and Hettinger

#### HOUSE JOINT RESOLUTION

NAMING THE STUDENT CENTER AT JOHN C. CALHOUN STATE COMMUNITY COLLEGE, THE "JAMES R. CHASTEEN STUDENT CENTER."



WHEREAS, the new Student Center at John C. Calhoun State Community College is the focal point for student campus activities; and

WHEREAS, the college's president, Dr. James R. Chasteen, has an outstanding record in public education, having served as a teacher in Shelby County, Alabama; as Director of Student Family Housing at the University of Alabama; and as Director of Counseling Services, Assistant Director of Education, Dean of Students, and Assistant to the President at the University of Montevallo; and

WHEREAS, Dr. Chasteen holds the B.A. degree from Samford University; the M.A., Ed.S. and Ed.D. degrees from the University of Alabama; and a certificate in Business from Harvard University; and

WHEREAS, Dr. Chasteen further is active in leadership in community affairs, including the Limestone County Industrial Development Board, Greater Decatur Area Enhancement Task Force, Decatur Chamber of Commerce Board of Directors, North Alabama Sheriff's Boys Ranch Board of Directors, Mid-South Advisory Board for CAEL and NAIA's Presidential Advisory Committee; and

WHEREAS, it is considered most appropriate to name the Student Center at John C. Calhoun State Community College in honor of Dr. Chasteen, president of the institution since 1976 and the second president in the college's 38-year history; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate the Student Center at John C. Calhoun State Community College, the "James R. Chasteen Student Center."

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Dr. Chasteen and appropriate signs and markers be installed on or near the Student Center to make known this honorary designation of the Alabama Legislature.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-746

H.J.R. 361—Rep. Pratt

#### HOUSE JOINT RESOLUTION

COMMENDING GLENN E. MESSER, BIRMINGHAM, ALABAMA, ON HIS NUMEROUS AVIATIONAL ACHIEVEMENTS.

WHEREAS, it is with a great sense of pride that the Alabama Legislature notes not only the numerous achievements of Mr. Glenn E. Messer, Birmingham, Alabama, in the field of aviation, but also the immeasurable contributions he has made in aeronautical engineering and design; and

WHEREAS, Mr. Glenn E. Messer began his aviatational career almost 74 years ago, served in the Canadian Royal Flying Corps and was on Mission to the United States when he was a pioneer in installing the Gosport System of flying in the United States; and

WHEREAS, Mr. Messer gained much fame with the Messer Flying Circus which included over 1,000 parachute jumps, trapeze acts, daredevil acrobatic stunts without safety nets, changing planes in flight and changing from car to plane in flight, many of these a first in displaying aeronautical endurance and maneuverability; and

WHEREAS, Mr. Glenn E. Messer was a trail blazer in numerous aviatational history-making achievements, including: flying the first airmail in 1925, airplane designs which were prototypes for modern aeronautical design and engineering, controllable propellers, and he individually or with others patented many aviatational-related components, all of which have contributed immeasurably to the progress this nation has achieved in aviation and aerospace; and

WHEREAS, Mr. Glenn E. Messer has participated in virtually every phase of aeronautics, from opening the first flying field in Birmingham, Alabama, the Dixie Flying Field, in early 1920s, commercial skywriting, assisting the F.B.I. in catching notorious kid-nappers, crop dusting and mapping, to manufacturing and designing flying instruments and airplanes; and

WHEREAS, Mr. Glenn E. Messer's total dedication to the field of aviation has brought honors too numerous to list; these have included: induction into the OX5 Aviation Pioneers Hall of Fame and named "Mr. OX5," in 1975; the 50th Anniversary re-enactment of the First Airmail Flight from Birmingham to Chattanooga, which he originated in 1925; listed in the Guinness Book of World Records for the most consecutive number of years flying powered flights through 1984; and on December 17, 1981, he was inducted into the Alabama Aviation Hall of Fame; now therefore,

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING,** That we do most heartily commend Mr. Glenn E. Messer on his numerous achievements and honors, his dedication to the improvement of the total field of aviation.

**BE IT FURTHER RESOLVED,** That we do hereby direct the Clerk of the House to send a copy of this resolution to Mr. Glenn

E. Messer as an expression of our high esteem and warmest personal regards.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-747

H.J.R. 365—Reps. Coleman and Rains

### HOUSE JOINT RESOLUTION

#### BESTOWING HONORARY MARSHALL COUNTY CITIZENSHIP ON U. S. CONGRESSMAN TOM BEVILL.

WHEREAS, January 14, 1985, the opening to traffic of the Tennessee-Tombigbee Waterway, was an historic occasion for the State of Alabama and the nation; and

WHEREAS, it is significant to note that the principal proponent of the Tennessee-Tombigbee project was, and continues to be, Alabama's Tom Bevill of Jasper, whose support of the waterway began more than twenty-five years ago, and the completion of this vast project is primarily to his credit; and

WHEREAS, as a member of the Alabama Legislature from 1958 until 1966, Mr. Bevill was instrumental in the appropriation of \$25,000 annually for our state's share of operating funds for the Tennessee-Tombigbee Waterway Development Authority, and he further is credited with securing funds for Alabama's obligations in the project's early development stages; and

WHEREAS, Tom Bevill, as a United States Congressman continuously since 1967, provided the necessary leadership to implement, construct and complete the largest public works water project in the nation's history; the reality of the Tennessee-Tombigbee has been one of the chief goals of a truly dedicated public servant and its reality is a monument to Tom Bevill and his pledge made almost two decades ago to the citizens of Alabama; and

WHEREAS, May 25, 1985, also is an historic occasion for our state and nation with the dedication in Marshall County, Alabama, of the Tennessee-Tombigbee Waterway, which date signifies the onset of an era of great economic and industrial development for areas adjacent to the Tenn-Tom Waterway corridors; and

WHEREAS, in gratitude to Congressman Tom Bevill, it is entirely proper and desirable that appropriate tribute be made, both to the man and to his long labors on our behalf; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service and in execution of the desire of the people of Marshall County, we hereby bestow honorary Marshall County citizenship on U. S. Congressman Tom Bevill of Jasper.

BE IT FURTHER RESOLVED, That Mr. Bevill be presented with a copy of this resolution as a memento of this honorary designation of the Alabama Legislature.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-748

H.J.R. 375—Reps. Tanner, and Moore

#### HOUSE JOINT RESOLUTION

COMMENDING POLICE CHIEF C. E. CARTER OF ALABASTER, ALABAMA.

WHEREAS, it is with regret that the Legislature of Alabama notes the announced retirement of C. E. "Bull" Carter as Chief of Police for the City of Alabaster; his, however, was a lengthy and distinguished tenure of twenty-five years as his community's chief law enforcement official; and

WHEREAS, Chief Carter, above and beyond extraordinary devotion to duty, also has exhibited outstanding dedication to his profession through such activities as membership in the National Chiefs' Association and Alabama Peace Officers' Association; charter membership in the Alabama Chief's Association, Shelby County Chiefs' Association and the Shelby County F.O.P.; trustee, for eight terms, of the State F.O.P. Lodge; past president of Local Lodge #41 for two terms; and past chairman, also for two terms, of the Local Chiefs' Association; and

WHEREAS, Chief Carter further has served as instructor, in finger printing and classification, for the University of Alabama-Birmingham Extension Center, and has conducted training courses for many local Alabama police departments; and

WHEREAS, his activities have extended to include such outstanding community involvement as former membership in the Alabaster Civitans and Lions Club, and he also is a former volunteer Fire Chief, past chairman of the Shelby Medical Center Board of Trustees, and is presently serving as chairman of Shelby Medical Center's Personnel Committee and as a member of the board of SMC; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we herein most highly commend C. E. Carter of Alabaster, Alabama, on his distinguished law enforcement career and for extraordinary contributions to the community.

BE IT FURTHER RESOLVED, That a copy of this resolution of commendation be forwarded to Chief Carter.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-749

H.J.R. 413—Rep. Pratt

#### HOUSE JOINT RESOLUTION

COMMENDING MR. BILL VAUGHAN, MIDFIELD, ALABAMA, "PARAMEDIC OF THE YEAR."

WHEREAS, the Alabama Legislature notes that Bill Vaughan, has been selected by the Fairfield Veterans of Foreign Wars Post as "Paramedic of the Year" for his professional dedication; and

WHEREAS, Bill Vaughan, is a native and lifelong resident of Midfield, attended the Hueytown High School and served in the United States Navy; and

WHEREAS, Bill Vaughan chose the life of a paramedic, with all of its dangers and frustrations, because of his dedication to helping his fellow men and women and community; and

WHEREAS, Bill Vaughan, has the reputation as a Paramedic's Paramedic because of his professional skills as an emergency medical technician, his compassion and caring attitude toward the victims of tragedy and their families; and

WHEREAS, Mr. Bill Vaughan also coaches little league baseball where he is a positive influence on the lives of many of our state's youth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily commend and praise Mr. Bill Vaughan, for his exemplary professional conduct which earned him the Paramedic of the Year Award and his many outstanding contributions to his community.

BE IT FURTHER RESOLVED, That we do direct that a copy of this resolution be sent to Mr. Bill Vaughan so that he may know of our high esteem and admiration.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-750

H. 327—Reps. Coleman, Biddle, Blake, Butler, Blakeney, Hall, Clark (J), Richardson, Pratt, Newman, Bowling, Hooper, Burke, Rogers, Cosby, Zoghby, Brakefield, McKee, Grouby, Mathis, Harvey, Junkins, Marietta, Mikell, Bugg, Johnson (Roy), Starkey, Lauderdale, Drake, Escott, McDowell, and Boles

### AN ACT

To amend sections 34-27-2 through 34-27-8, 34-27-10, 34-27-11, 34-27-30 through 34-27-38, 34-27-50 through 34-27-52, 34-27-57, 34-27-58, 34-37-60 through 34-27-64 and 34-27-66 through 34-27-68 of the Code of Alabama 1975, which relate to the regulation of real estate and time-sharing brokers, salesmen and transactions and to the real estate commission and its executive officers, so as to provide further for such regulation, for the duties of such executive officers and for penalties and to repeal section 34-27-9 relating to bonds of such executive officers.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 34-37-2 through 34-27-8, 34-27-10, 34-27-11, 34-27-30 through 34-27-38, 34-27-50 through 34-27-52, 34-27-57, 34-27-58, 34-27-60 through 34-27-64 and 34-27-66 through 34-27-68 of the Code of Alabama 1975 are hereby amended to read as follows:

“§34-27-2.

“(a) For purposes of articles 1 and 2 of this chapter, the following terms shall have the respective meanings ascribed by this section:

“(1) **PERSON** means a natural person.

“(2) **BROKER** means any person licensed as a real estate broker under the provisions of articles 1 and 2 of this chapter.

“(3) **SALESMAN** means any person licensed as a real estate salesman under the provisions of articles 1 and 2 of this chapter.

“(4) **QUALIFYING BROKER** means a broker under whom a corporation, partnership, or branch office, is licensed, or a broker

licensed to do business as a sole proprietorship, and who is responsible for supervising the acts of the company or proprietorship and all real estate licensees licensed therewith.

“(5) COMPANY means any corporation, partnership, or branch office licensed as a company under the provisions of articles 1 and 2 of this chapter.

“(6) ASSOCIATE BROKER means any broker other than a qualifying broker.

“(7) LICENSEE means any broker, salesman or company.

“(8) COMMISSION means the Alabama Real Estate Commission, except where the context requires that it means the fee paid to a broker or salesman.

“(9) ENGAGE means contractual relationships between a qualifying broker, and an associate broker or salesman licensed under him whether the relationship is employer-employee, independent contractor, or otherwise.

“(10) INACTIVE LICENSE means a license which is being held by the commission office by law, order of the commission, or at the request of the licensee or which is renewable but is not currently valid because of failure to renew.

“(11) LICENSE PERIOD means that period of time beginning on October 1 of a year designated by the commission to the first year of a license period and ending on midnight September 30 of the year designated by the commission as the final year of that license period.

“(12) COMMISSIONER means a member of the commission.

“(13) RECOVERY FUND means the Alabama Real Estate Recovery Fund.

“(b) The licensing requirements of articles 1 and 2 of this chapter shall not apply to the following persons and transactions:

“(1) Any owner in the managing of, or in consummating a real estate transaction involving, his own real estate or the real estate of his spouse or child or parent; or

“(2) Attorney-at-law performing his duties as an attorney-at-law; or

“(3) Person acting without compensation and in good faith under duly executed power of attorney authorizing the consummation of a real estate transaction; or

“(4) Person or a state or federally chartered financial institution acting as a receiver, trustee, administrator, executor or guardian; or

acting under a court order or under authority of a trust instrument or will; or

“(5) Public officer performing his official duties; or

“(6) Person performing general clerical or administrative duties for a broker, so long as the person does not physically show listed property; or

“(7) Person acting as the on-site manager for an apartment building or complex if the manager resides on the premises. However, this exception shall not apply to a person acting as an on-site manager of a condominium building or complex; or

“(8) Person licensed as a time-share seller under article 3 of this chapter performing an act consistent with the provisions of that article; or

“(9) Transactions involving the sale, lease, or transfer of cemetery lots.

“§34-27-3.

“(a) It shall be unlawful for any person, partnership or corporation who is not a resident of Alabama to perform any of the acts described in section 34-27-30; except, that a licensed broker of another state may act as co-broker with a licensed broker of this state by executing a written agreement specifying each parcel of property covered by the agreement if the state in which the nonresident broker is licensed offers the same privileges to licensees of this state.

“(b) Whenever an Alabama broker enters into a co-brokerage agreement with a nonresident broker to perform in Alabama any of the acts described in section 34-27-30, the Alabama broker shall file within 10 days with the commission a copy of each such written agreement. By signing the agreement, the nonresident broker agrees to abide by Alabama law, and the rules and regulations of the commission; and further agrees that civil actions may be commenced against him in any court of competent jurisdiction in any county of this state in which a claim may arise.

“§34-27-4.

“All fees, fines, charges or other money, except as provided in section 34-27-31, collected by the commission shall be paid into the state treasury and shall constitute a separate fund to be disbursed by the state comptroller on order of the executive director at the direction of the commission. A proportionate share of all money collected by the commission as license fees during the first fiscal year of a multi-year license period or during the renewal period immediately preceding that first year shall be reserved in the separate



fund by the state comptroller to be disbursed for commission expenses incurred in the subsequent years of that license period. The proportion for each year shall be determined by dividing the amount of money collected by the commission as license fees that first year or during the renewal period immediately preceding that first year by the number of years within that multi-year license period. All other money including penalty fees collected by the commission shall be disbursed during the fiscal year in which they are collected. The state comptroller and state treasurer are directed to pay all expenses incurred by the commission in performing its responsibilities and exercising its authority from the separate fund in the state treasury on warrants of the state comptroller drawn on the state treasury on order of the executive director. The commission may not incur expenses that exceed the total fees and charges collected and paid into the state treasury; or that exceed the amount appropriated by the legislature. No funds shall be withdrawn or expended except as shall be budgeted and allotted in accordance with the provisions of sections 41-4-80 through 41-4-96. All money remaining unexpended in the separate fund, except for the money reserved by the state comptroller for disbursement in the subsequent years of a multi-year license period, at the end of each fiscal year shall be conveyed to the state treasury to the credit of the general fund of the state of Alabama.

“§34-27-5.

“The commission shall on the request of the probate judge of any county of this state provide the judge with a list of persons who are licensed by the commission and who reside in that county.

“§34-27-6.

“The commission may approve, sponsor, contract for or conduct, or assist in sponsoring or conducting real estate courses for licensees, and may incur and pay the necessary expenses in connection therewith,

“§34-27-7.

“(a) There is hereby created the Alabama real estate commission. The commission shall consist of seven members appointed by the governor with the advice and consent of the senate. Appointments made at times when the senate is not in session shall be effective ad interim. Any appointment made by the governor while the senate is in session must be submitted to the senate not later than the third legislative day following the date of appointment; any appointment made while the senate is not in session shall be submitted not later than the third legislative day following the reconvening of the legislature. Each appointee shall have been a resident and citizen of this state for at least 10 years prior to his appointment and whose

vocation for at least 10 years shall have been that of a real estate broker or real estate salesman. No person convicted of a violation of any federal or state real estate license law shall be eligible to serve. Not more than one member from any congressional district shall be appointed to serve at the same time. The members of the commission shall serve five-year terms. Each member shall hold office until his successor is appointed and qualified. All appointments shall expire on September 30 of the final year of a term, or on the date a successor to the member is appointed and qualified. If a member does not serve his full term, the governor shall appoint, subject to confirmation by the senate, a member to serve the unexpired portion of the term.

“(b) On the appointment of a new commissioner, the commission shall meet and select from its members a chairman.

“(c) Each member of the commission shall receive as full compensation \$300.00 per month and his actual and necessary expenses incurred in performing his official duties. The members of the commission, its staff, and attorneys shall be reimbursed for their actual expenses for travel on official business of the commission within or without the state of Alabama.

“(d) The commission may employ an executive director and an assistant executive director, both of whom shall be exempted from the classified service under the general laws of the state, and such other staff members as are necessary to discharge its duties and administer this chapter. The assistant executive director shall act as and have authority of the executive director in his absence. The commission shall determine the duties and fix the compensation of the executive director, assistant executive director, and other staff members, subject to the general laws of the state.

“(e) The commission shall adopt a seal by which it shall authenticate records and documents. Copies of all records and documents in the office of the commission duly certified and authenticated by the seal of the commission shall be received in evidence in all courts equally and with like effect as the original. All public records kept in the office of the commission shall be open to public inspection during reasonable hours and under reasonable circumstances.

“(f) No commissioner shall be liable for damages resulting from any act performed in carrying out his duties as a commissioner.

“§34-27-8.

“The commission may act by a majority of its members, and is authorized and empowered to adopt, and enforce all rules and regulations necessary for the administration of the provisions of this

chapter, and to otherwise do all things necessary and convenient for effecting the provisions of this chapter.

“§34-27-10.

“(a) The requirements of this chapter shall be in addition to the requirements of existing or future laws or ordinances of any state, county or municipality taxing, licensing or regulating real estate brokers or salesmen.

“(b) A licensee under this chapter shall not be subject to the requirements of section 40-12-150 when he sells, offers to sell or advertises for sale realty situated in another state or county.

“(c) Licensees under this chapter shall be exempt from the provisions of section 5-19-22.

“§34-27-11.

“(a) Any person or corporation which violates any provision of this chapter commits a Class A misdemeanor and, on conviction, shall be punished accordingly.

“(b) Any person who files with the commission any notice, statement or other document or information required under the provisions of this chapter which is false or untrue or contains any material misstatement of fact commits a Class A misdemeanor and, on conviction, shall be punished accordingly.

“§34-27-30

“It shall be unlawful for any person, partnership, corporation, or branch office, for a fee, commission or other valuable consideration, or with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration from another, to do any of the following unless he is licensed under articles 1 and 2 of this chapter:

“(1) sell, exchange, purchase, rent, or lease real estate;

“(2) offer to sell, exchange, purchase, rent, or lease real estate;

“(3) negotiate or attempt to negotiate the listing, sale, exchange, purchase, rental, or leasing of real estate;

“(4) list or offer or attempt or agree to list real estate for sale, rental, lease, exchange, or trade;

“(5) auction, offer or attempt or agree to auction, real estate;

“(6) buy or sell or offer to buy or sell, or otherwise deal in options on real estate;

“(7) aid, attempt, or offer to aid in locating or obtaining for purchase, rent, or lease any real estate;

“(8) procure or assist in procuring of prospects for the purpose of effecting the sale, exchange, lease, or rental of real estate;

“(9) procure or assist in the procuring of properties for the purpose of effecting the sale, exchange, lease or rental of real estate; or

“(10) present himself or be presented as being able to perform an act for which a license is required.

“§34-27-31.

“(a) The commission is authorized and directed to establish and maintain a recovery fund from which an aggrieved party may recover actual or compensatory damages, not including interest and court costs, sustained as a result of conduct of a broker or salesman in violation of a provision of article 1 or 2 of this chapter or the rules and regulations of the commission.

“(b) Notwithstanding any other provision, payments from the recovery fund are subject to the following conditions and limitations:

“(1) The fund shall not be obligated for the acts or omissions of a broker, or salesman, while acting on his own behalf or on behalf of his child or spouse or parent regarding property in which he or his spouse or child or parent has, or is attempting to acquire, an interest; or for the acts or omissions of an inactive licensee; or for the acts or omissions of a corporation, branch office or partnership except through its licensed salesmen and brokers as individuals. Nor shall the fund be obligated for any judgment or settlement resulting from an act or omission of a broker or salesman committed in conjunction with the marketing or development of a time-sharing project.

“(2) Payments for claims based on judgments or settlements against any one person shall not exceed \$50,000.00 in the aggregate.

“(3) Payments for claims arising out of the same transaction shall not exceed \$25,000.00 in the aggregate, regardless of the number of claimants.

“(4) The fund shall not be liable for payments to a licensee or bonding company unless the licensee or bonding company was a principal party to a real estate transaction on which the judgment was based.

“(c) When any person makes application for an original license as a broker, or salesman, he shall pay, in addition to all other fees, a fee of \$30.00 for deposit in the recovery fund. In the event the commission does not issue the license, this fee shall be returned to the applicant.

“(d) When the balance remaining in the recovery fund is less than \$500,000.00, each broker and salesman shall on order of the commission pay a fee of \$30.00 per license for deposit in the recovery fund. A licensee on inactive status shall not be required to contribute to the fund at that time; however, he shall pay a fee of \$30.00 at the time his license is activated.

“(e) (1) When an aggrieved person commences action for a judgment which may result in collection from the real estate recovery fund, the aggrieved person shall notify the commission in writing, by certified mail, return receipt requested, to this effect at the time of the commencement of the action.

“(2) When the commission receives the notice described in subdivision (e)(1), the commission may enter an appearance, file pleadings and motions, appear at court hearings, defend the action or take whatever other action it deems appropriate either on the behalf and in the name of the defendant or in its own name. The commission may also take any appropriate method of review either on behalf and in the name of the defendant or in its own name. The commission may settle or compromise the claim. Any expenses incurred by the commission in defending, satisfying or settling any claim shall be paid from the recovery fund.

“(3) When an aggrieved person recovers a valid judgment in a court of competent jurisdiction against a broker or salesman on the grounds described in subsection (a) above which occurred on or after October 1, 1979, the aggrieved person may, on the termination of all proceedings, including reviews and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, on 10 days written notice to the commission, may apply to the court for an order directing payment out of the recovery fund of the amount unpaid on the judgment.

“(4) The court shall proceed on such application forthwith and, on hearing, the aggrieved person shall be required to show that:

“a. He is not the spouse, child or parent of the debtor, or the personal representative of the spouse, child or parent;

“b. He has obtained a judgment, as described in subdivision (3) of subsection (e) of this section, stating the amount of the judgment and the amount owing on the judgment at the date of the application, and, that in such action, he had joined any and all bonding companies which issued corporate surety bonds to the judgment debtor as principal and all other necessary parties;

“c. The following items, if recovered by him, have been applied to the actual compensatory damages awarded by the court:

“1. Any amount recovered from the judgment debtor;

“2. Any amount recovered from bonding companies;

“3. Any amount recovered in out-of-court settlements.

“(5) The court shall order that the recovery fund pay whatever sum it finds due under the provisions and limitations of this section.

“(6) Should the commission pay from the recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, all licenses of the licensee may be terminated by the commission. The commission may refuse to issue a new license to the former licensee until he has repaid in full, plus interest at the rate of 12 percent a year, the amount paid from the recovery fund. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided, in this section.

“(7) If the balance in the recovery fund is insufficient to satisfy a duly authorized claim or portion of a claim, the commission shall, when sufficient money has been deposited in the recovery fund, satisfy the unpaid claims or portions plus interest at the rate of 12 percent a year in the order that the claims were originally filed.

“(f) The sums received by the commission pursuant to the provisions of this section shall be deposited into the state treasury and held in a special fund to be known as the real estate recovery fund, and shall be held by the commission in trust for carrying out the purposes of the recovery fund. These sums may be invested by the state treasurer in any investments which are legal for domestic life insurance companies under the laws of this state. Any interest or other income from investments of the recovery fund shall be deposited in equal shares, as it accrues, into the general fund of the state treasury and the commission fund.

“(g) When, on order of the court, the commission has paid from the recovery fund any sum, the commission shall be subrogated to all the rights of the judgment creditor, and all his right, title and interest in the judgment, to the extent of the amount paid from the recovery fund, shall thereby be assigned to the commission. Any amount and interest recovered by the commission on the judgment shall be deposited to the fund.

“(h) The failure of an aggrieved person to strictly comply with all of the provisions of this section shall constitute a waiver of any rights under this section.

“(i) Each licensee shall notify the commission within 10 days after notice to him of the institution of any criminal prosecution against him, or of a civil summons and complaint against him, if the subject matter of the civil complaint involves a real estate transaction, or involves the good will of an existing real estate

business. The notification shall be in writing by certified mail and must include a copy of the summons and complaint or, if a criminal charge, the specific charge made against him together with a copy of any indictment or information alleging the charges.

“(j) Each licensee shall notify the commission in writing by certified mail within 10 days after he receives notice that any criminal verdict has been rendered against him, or that a criminal action pending against him has been dismissed, or that a civil action in which he was a defendant and which involved a real estate transaction or the good will of a real estate business has resulted in a judgment or been dismissed. The notification shall be in writing and must include a copy of the court order or other document giving the licensee notice.

“§34-27-32.

“(a) A license for a broker or a salesman shall be issued only to, and held only by, a person:

“(1) who is trustworthy and competent to transact the business of a broker or salesman in a manner that safeguards the interest of the public;

“(2) whose application or license has not been rejected or revoked in any state within two years prior to date of application on any grounds other than failure to pass a written examination. Any applicant whose license has been revoked must meet all the requirements imposed on an original applicant for a license and shall not be relicensed without the approval of the commissioners;

“(3) who is at least 19 years old;

“(4) who is a citizen of the United States or is an alien with permanent resident status; and

“(5) who is a resident of Alabama. Provided that one who obtains an Alabama license while a resident may retain it on inactive status if he should no longer be an Alabama resident.

“The commission may, in its discretion, reject the application of any person who has been convicted of or pleaded guilty or nolo contendere to a felony or a crime involving moral turpitude.

“(b) A person desiring to be a real estate broker in this state must apply for a broker's license on a form prescribed by the commission. Along with the application, he shall submit:

“(1) proof that he has had an active real estate broker's or salesman's license in any state for at least twenty-four months of the thirty-six month period immediately preceding the date of application,

“(2) proof that he is a high school graduate or the equivalent,

“(3) proof that he has completed a course in real estate approved by the commission, and

“(4) any other information requested by the commission.

“In lieu of the requirements of subdivisions (1) and (3) hereof, the applicant may furnish proof that he has successfully completed at least 15 semester hours or its equivalent in real estate courses approved by the commission.

“(c) A person desiring to be a real estate salesman in this state must apply for a salesman’s license with the commission on a form prescribed by the commission. Along with the application he must furnish:

“(1) proof that he is a high school graduate or the equivalent,

“(2) proof that he has successfully completed a course in real estate approved by the commission, and

“(3) any other information required by the commission.

“(d) An application for a company license for a corporation, partnership or branch office shall be made by a qualifying broker on a form prescribed by the commission. The qualifying broker must be an officer, partner or employee of the company.

“(e) If the applicant for a company or broker license maintains more than one place of business in the state, he must have a company license for each separate location or branch office. Every application shall state the location of the branch office and the name of its qualifying broker. Each branch office shall be under the direction and supervision of a qualifying broker licensed at that address. No person may serve as qualifying broker at more than one location. The qualifying broker for the branch office and the qualifying broker for the corporation, partnership, or sole proprietorship shall share equal responsibility for the real estate activities of all licensees assigned to the branch office.

“(f) No person may be qualifying broker for more than one company or for a company and on his own behalf unless:

“(1) All companies for which he is and proposes to be the qualifying broker, consent in writing, and

“(2) He files a copy of the written consent with the commission, and

“(3) He will be doing business from the same location.

“A person licensed under a qualifying broker may be engaged by one or more companies with the same qualifying broker.



“(g) A company license shall become invalid on the death or disability of a qualifying broker. Within 30 days after the death or disability, the corporation, or the remaining partners or the successor partnership, if any, may designate another of its officers, members or salesmen to apply for a license as temporary qualifying broker. The person designated as temporary qualifying broker either must be a broker or must have been a salesman for at least one year prior to filing the application. If the application is granted, the company may operate under that broker for no more than six months after the death or disability of its former qualifying broker. Unless the company designates a fully licensed broker as the qualifying broker within the six months, the company license shall be classified inactive by the commission.

“§34-27-33.

“(a) In addition to other requirements of this chapter, every applicant for a broker's or salesman's license shall submit to a reasonable written examination. The commission shall conduct examinations at such places and times as it shall prescribe. The commission is authorized to contract with an independent testing agency to prepare, grade or conduct this examination. The fee shall be \$75.00 for each examination taken by the applicant, and no refund shall be made if an applicant fails the examination. The examination fee shall be paid by certified check, cashier's check, or money order. If an applicant is scheduled and issued a written permit for an examination and fails to appear, one-half of the examination fee will be forfeited.

“(b) The applicant shall have 60 days after passing the examination to secure a qualifying broker or to have his license classified as inactive; otherwise, he must meet all requirements of an original applicant. In order to obtain an active license, the applicant's qualifying broker must sign and submit to the commission a sworn statement that the salesman is in his opinion honest, trustworthy, and of good reputation and that he accepts responsibility for the actions of such salesman as set out in section 34-27-31.

“(c) On passing the examination and complying with all other conditions for licensure, a license certificate shall be issued to the applicant. The applicant is not licensed until he or his qualifying broker actually receives the license certificate.

“§34-27-34.

“(a) (1) A broker may serve as qualifying broker for a salesman or associate broker only if his principal business is that of a real estate broker and he will be in a position to actually supervise the real estate activities of the associate broker or salesman on a full-time basis.

“(2) A salesman or associate broker may not perform acts for which a license is required unless licensed under a qualifying broker. A qualifying broker shall be held responsible to the commission and to the public for all acts governed by this chapter of each salesman and associate broker licensed under him and of each company for which he is the qualifying broker. It shall be the duty of the qualifying broker to see that all transactions of every licensee engaged by him or any company for which he is the qualifying broker comply with the provisions of this chapter. Additionally, the qualifying broker shall be responsible to an injured party for the damage caused by any violation of this chapter by any licensee engaged by the qualifying broker. This subsection does not relieve a licensee from liability that he would otherwise have.

“(b) Any salesman or associate broker who desires to change his qualifying broker shall give notice in writing to the commission, and shall send a copy of the notice to his qualifying broker. The new qualifying broker must file with the commission a request for the transfer and a statement assuming liability for the licensee. On payment of a fee of \$25.00, a new license certificate shall be issued to the salesman or associate broker for the unexpired term of the original license. No license transfer shall be made during September of the final year of a license period except in case of undue hardship.

“(c) A person who wishes to terminate his status as qualifying broker for a licensee may do so by notifying the licensee and the commission in writing and sending the licensee's certificate to the commission or verifying in writing to the commission that the certificate has been lost or destroyed.

“(d) A person who wishes to terminate his status as a qualifying broker for a company may do so by submitting written notice to the company or qualifying broker of the parent company and the commission.

“(e) A salesman or associate broker shall not perform any act for which a license is required after his association with his qualifying broker has been terminated, or if he changes qualifying brokers, until a new active license has been issued by the commission.

“§34-27-35.

“(a) The commission shall prescribe the form and content of license certificates issued. Each qualifying broker's license certificate shall show the name and business address of the broker. The license certificate of a salesman or associate broker shall show his name and the name and address of his qualifying broker. The license certificate of each salesman or associate broker shall be delivered or mailed to his qualifying broker. Each license shall be kept by the qualifying

broker and shall be publicly displayed at the address which appears on the license certificate.

“(b) The commission shall have the authority, at its discretion, to establish a one-year or multi-year license period.

“(c) The fee for a broker’s license shall be \$25.00 per year for each year or portion of a year remaining in the respective license period, and the renewal fee for a broker’s license shall be \$25.00 per year for each year of the license period. The original fee for each salesman’s license shall be \$15.00 per year for each year or portion of a year remaining in the respective license period, and the renewal fee for each salesman’s license shall be \$15.00 per year for each year within the license period. The original fee for each company license shall be \$15.00 per year for each year or portion of a year remaining in the respective license period, and the renewal fee for such license shall be \$15.00 per year for each year of the license period.

“(d) The license of a salesman who is subsequently issued a broker’s license automatically terminates upon receipt of his broker’s license certificate, and he must return his salesman’s license certificate to the commission. If the salesman’s license is so terminated during a year prior to the final year of a multi-year license period, the licensee will receive a refund equal to the license fee paid for each full year remaining in the respective license period. However, no refund shall be made of any penalty fee or recovery fund deposit pertaining to the salesman’s license.

“(e) The commission shall prescribe a license renewal form, which must accompany renewal fees and must be filed on or before August 31 of the final year of each license period. Licensees who renew during the period from September 1 of the final year of a license period through October 31 of the initial year of the following license period, shall pay a penalty of \$15.00 in addition to the license fee. Any licensee renewing during the period from November 1 through September 30 of the initial year of a license period shall pay the required license fee, plus a penalty of \$65.00.

“(f) The renewal form shall be mailed by the commission to the licensee’s place of business, if an active licensee, or to his residence if an inactive licensee, prior to August 1 of the final year of each license period. Each licensee must notify the commission in writing of any change in his business or residence address within 30 days of the change.

“(g) Every license shall expire at midnight on September 30 of the final year of each license period. An expired license may be renewed during the twelve-month period following the license period for which the license was current. A licensee who fails to file a renewal form or a request for an inactive classification before the

end of the twelve-month period following the license period for which the license was issued shall be subject to all requirements applicable to persons who have never been licensed.

“(h) (1) A licensee may request that the commission classify his license as inactive. Inactive licenses will be held at the commission office until activated. No act for which a license is required may be performed under an inactive license.

“(2) The active license of any licensee who changes residence from Alabama to another state or country shall become inactive immediately upon the change of residence. The licensee must submit his license certificate to the commission within 20 days of the change of residence.

“(3) Any licensee whose license has been inactive for more than 50 percent of the 24 months immediately preceding the date he proposes that the license be activated shall not be able to activate his license without first providing proof to the commission that he has successfully completed a refresher course approved by the commission.

“§34-27-36.

“(a) The commission or its staff may on its own, or on the verified complaint in writing of any person, investigate the actions and records of a licensee. The commission may issue subpoenas and compel the testimony of witnesses and the production of records and documents during an investigation. If probable cause is found, a formal complaint shall be filed and the commission shall hold a hearing on the formal complaint. The commission shall revoke or suspend the license and/or impose a fine of not less than \$25.00 nor more than \$1,000.00 or reprimand the licensee in each instance in which the licensee is found guilty of:

“(1) Procuring, or attempting to procure, a license, for himself or another, by fraud, misrepresentation or deceit, or by making a material misstatement of fact in an application for a license; or

“(2) Engaging in misrepresentation or dishonest or fraudulent acts when selling, buying, trading or renting real property of his own or of a spouse or child or parent; or

“(3)a. Making a material misrepresentation, or

“b. Failing to disclose to a potential purchaser or lessee any latent structural defect or any other defect known to the licensee. Latent structural defects and other defects do not refer to trivial or insignificant defects but refer to those defects that would be a significant factor to a reasonable and prudent person in making a decision to purchase or lease; or

“(4) Making any false promises of a character likely to influence, persuade or induce any person to enter into any contract or agreement; or

“(5) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through agents or salesmen or any medium of advertising or otherwise; or

“(6) Publishing or causing to be published any advertisement which does or which is likely to deceive the public, or which in any manner tends to create a misleading impression or which fails to identify the person causing the advertisement to be placed as a licensed broker or salesman; or

“(7) Acting for more than one party in a transaction without the knowledge and consent in writing of all parties for whom he acts; or

“(8)a. Failing, within a reasonable time, to properly account for or remit money coming into his possession which belongs to others, or comingling money belonging to others with his own funds; or

“b. Failing to deposit and account for at all times all funds belonging to, or being held for others, in a separate federally insured account or accounts in a financial institution; or

“c. Failing to keep for at least three years a complete record of funds belonging to others showing to whom the money belongs, date deposited, date of withdrawal and other pertinent information; or

“(9) Placing a sign on any property offering it for sale, lease or rent without the consent of the owner; or

“(10) Failing to voluntarily furnish a copy of each listing, contract, lease and other document to each party executing the document with reasonable promptness; or

“(11) Paying any profit, compensation, commission or fee to, or dividing any profit, compensation, commission or fee with, anyone other than a licensee or multiple listing service; or

“(12) Paying or receiving any rebate from any person in a real estate transaction; or

“(13) Inducing any party to a contract to break the contract for the purpose of substituting a new contract, where the substitution is motivated by the personal gain of the licensee; or

“(14) If the licensee is a salesman or associate broker, accepting a commission or other valuable consideration for performing any act for which a license is required from any person except his qualifying broker; or

“(15) If a qualifying broker or company, allowing a salesman or associate broker licensed under him to advertise himself as a real estate agent without the name or trade name of the qualifying broker or company appearing on the advertising in letters at least as large as the name of the salesman or, associate broker; or if the licensee is a salesman or associate broker, advertising himself as a real estate agent without the name or trade name of the qualifying broker or company under whom the salesman or associate broker is licensed appearing on the advertising in letters at least as large as the name of the salesman or associate broker; or

“(16) Presenting to the commission, as payment for a fee or fine, a check that is returned unpaid; or

“(17) Establishing an association, by employment or otherwise, with an unlicensed person who is expected or required to act as a licensee, or aiding or abetting or conspiring with a person to circumvent the requirements of this chapter; or

“(18) Failing to disclose to an owner the licensee's intention to acquire, directly or indirectly, an interest in property which he or his associates have been employed to sell; or

“(19) Violating or disregarding any provision of this chapter or any rule, regulation or order of the commission; or

“(20) If a broker, accepting a ‘net listing’ agreement for sale of real property or any interest therein. A ‘net listing’ is one that stipulates a net price to be received by the owner with the excess due to be received by the broker as his commission; or

“(21) Misrepresenting or failing to disclose to any lender, guaranteeing agency or any other interested party, the true terms of a sale of real estate; or

“(22) Failing to inform the buyer or seller at the time an offer is presented that he will be expected to pay certain closing costs and the approximate amount of those costs; or

“(23)a. Having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude; or

“b. Having a final money judgment rendered against him which results from an act or omission occurring in the pursuit of his real estate business or involves the goodwill of an existing real estate business; or

“(24) Using prizes, money, free gifts or other valuable consideration as inducements to:

“a. Secure customers to purchase, rent or lease property when the awarding of such prizes, money, free gifts or other valuable consideration is conditioned upon the purchase, rental or lease; or

“b. Secure clients to list properties with licensee; or

“(25) Offering free lots or conducting lotteries for the purpose of influencing a party to purchase or lease real estate or;

“(26) Failing to include a fixed date of expiration in a written listing agreement or failing to leave a copy of the agreement with the principal; or

“(27) Conduct which constitutes or demonstrates dishonest dealings, bad faith, or untrustworthiness; or

“(28) Acting negligently or incompetently in performing an act for which a person is required to hold a real estate license; or

“(29) Failing or refusing on demand to produce a document, book, or record in his possession concerning a real estate transaction conducted by him for inspection by the commission or its authorized personnel or representative; or

“(30) Failing within a reasonable time to provide information requested by the commission during an investigation or after a formal complaint has been filed; or

“(31) Failing without cause to surrender to the rightful owner, on demand, a document or instrument coming into his possession; or

“(32) If a qualifying broker or company, failing to keep in their files copies of all contracts, leases, listings and other records pertinent to real estate transactions for a period of three years.

“(b) If it appears that a person, firm, corporation, or any business entity has engaged, or is about to engage, in an act or practice constituting a violation of a provision of article 1 or 2 of this chapter or any rule or order of the commission, the commission, through the attorney general, may institute legal actions to enjoin the act or practice and to enforce compliance with articles 1 and 2 of this chapter or any rule or order of the commission. To prevail in such action, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof.

“§34-27-37.

“(a) An action against an accused shall begin by serving the accused either personally or by certified mail with a copy of the formal complaint against him. The accused shall be given at least 15 days notice of the time, date and place of hearing. If the commission refuses to license an applicant, notice of the refusal shall be given to the applicant, and he may, within 15 days after delivery of the notice, file a request for a hearing. The applicant or accused

shall have an opportunity to be heard in person or by counsel, to offer testimony in his behalf and to examine witnesses. Hearings shall be held in the county in which the applicant resides or in which the accused maintains his principal place of business, unless the applicant or accused agrees to be heard in another county. If the accused does not maintain his place of business in Alabama, then the hearing shall be held in his county of residence. If the accused neither resides or maintains a place of business in Alabama, the hearing shall be held in Montgomery county. At hearings, all witnesses shall be sworn by a member of the commission, the executive director, the assistant executive director, or a hearing officer. The commission shall render a written order within 30 days from the final date of hearing. If the matter alleged in the complaint is the subject of an action pending in any court the commission may withhold rendering or implementing its order pending disposition of the court action.

“(b) The commission may issue subpoenas for the attendance of witnesses and the production of records and documents, either at the instance of the commission or the accused. The process issued by the commission shall extend to all parts of the state, and such process shall be served by a person designated by the commission or by mailing the process certified mail. A subpoenaed witness who appears in a proceeding before the commission shall receive fees, mileage and expense allowances as authorized by the commission. All fees, mileage and expense payments shall be taxed against the party or parties subpoenaing the witness.

“(c) If in a proceeding before the commission, a subpoenaed witness fails or refuses to attend or refuses to testify or fails or refuses to produce subpoenaed documents or records, his attendance and testimony or the production of the documents and records shall be enforced by any circuit court of this state, in the same manner as the attendance and testimony of witnesses is enforced in civil cases.

“(d) An accused, applicant or other party to a case heard by the commission who is aggrieved by a final decision may file an application for rehearing specifying grounds for relief within 15 days of receiving notice of the decision. An application for rehearing does not modify the effective date of the decision and is appropriate only if the final decision is:

- “(1) In violation of constitutional or statutory provisions;
- “(2) In excess of the statutory authority of the commission;
- “(3) In violation of a commission rule;
- “(4) Made upon unlawful procedure;



“(5) Affected by other error of law;

“(6) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

“(7) Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion.

“Within 30 days from the filing of the application for rehearing the commission shall set a hearing date on the application, or shall enter an order without a hearing, or shall grant or deny the application. If the applicant is granted a rehearing, the commission will schedule a rehearing as soon as practicable. If the commission does not enter an order within 30 days from the filing of the application for rehearing, the application shall be deemed to be denied.

“§34-27-38.

“(a) Findings of the commission are final unless within 30 days after the date of the commission’s final order, the applicant or accused files a notice of appeal in the circuit court of Montgomery county, or of the county of his residence, if an Alabama resident; or, if a corporation registered in Alabama, in the circuit court of the county of registration or the county in which the corporation has its principal place of business in Alabama. A party appealing a decision shall post a \$200.00 appeal bond with the clerk of the circuit court. The circuit clerk shall notify the commission of the appeal after the clerk has approved the appellant’s bond.

“(b) An appeal does not act as supersedeas, but the decision of the commission may be stayed by the court pending such appeal.

“(c) The commission shall within 30 days of service of the notice of appeal or within such additional time as the court may allow, file the record in the case with the circuit clerk. A complaint setting forth with particularity the issues raised on appeal shall be filed with the court and served on the commission by the appealing party within 30 days after the notice of appeal is filed. Thereafter the action shall be conducted in accordance with the Alabama Rules of Civil Procedure.

“(d) The appeal shall be conducted by the court without a jury and shall be confined to the record. The commission’s decision shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the commission as to the weight of the evidence on questions of fact. The court shall affirm or reverse, in part or in whole, or modify the commission decision or remand the case to the commission for further proceedings.

“If the commission decision is affirmed, in whole or in part, the cost of the appeal shall be taxed against the party taking the appeal.

If the decision of the commission is not affirmed, the court shall tax the costs of appeal against the commission.

“§34-27-50.

“For the purposes of this article, the following terms shall have the meaning respectively ascribed to them by this section:

“(1) ACCOMMODATIONS. Any hotel or motel room, condominium, or cooperative unit, cabin, lodge, apartment or any other private or commercial structure designed for occupancy by one or more individuals or any recreational vehicle campsite or campground.

“(2) BUSINESS ENTITY. Any individual, corporation, firm, association, joint venture, partnership, trust, estate, business trust, syndicate, fiduciary, and any other group or combination which engages in acts or practices in any trade or commerce.

“(3) CONTRACT. Any contract, promissory note, credit agreement, negotiable instrument, lease, use agreement, license, security or other muniment conferring on the purchaser the rights, benefits and obligations of a vacation time-sharing plan.

“(4) COMMISSION. The Alabama real estate commission.

“(5) COMMISSIONER. A member of the Alabama real estate commission.

“(6) FACILITIES. Any structure, service or property whether improved or unimproved made available to the purchaser for recreational, social, family or personal use.

“(7) SELLER. Any owner of a vacation time-sharing plan or any business entity, including but not limited to an agent, dealer, distributor, franchiser, subsidiary, assignee, reseller, broker or any other representative thereof who, for a fee, commission or other valuable consideration, negotiates or attempts to negotiate the listing, sale, auction, purchase, exchange or lease of any real estate or the improvements thereon or collects rents or attempts to collect rents, or who advertises or holds himself out as engaged in any of the foregoing activities. Provided however, that the provisions of this article shall not be applicable to:

“a. The resale of a vacation time-sharing unit week by the owner of such unit week, when the seller owns no more than four such unit weeks within the respective vacation time-sharing plan. Provided however, that the contract for such resale shall meet all the requirements of a contract for the initial sale of a vacation time-sharing interest, including the non-waivable right of the purchaser to cancel the contract within the specified five-day period.

“b. Agencies and instrumentalities of the state or federal government nor to employees of any lender or public officials making

appraisals through such employees for lending or governmental purposes; and provided further, that the sales licensure provisions of this article shall not be applicable to the sale or leasing or real estate by anyone who owns a fee simple interest of at least 10 percent therein, or to the attorney-at-law of such owner acting within the scope of his duties as an attorney-at-law. Ownership of stock in a corporation is not ownership of an interest in real estate owned by the corporation and does not exempt such stockholder from any provision of this article unless the stockholder owns or controls at least 10 percent of the stock of the corporation. This provision exempts owners from only the sales license requirements of this article. All other requirements of sellers under this article shall apply to owners of vacation time-sharing plans.

“(8) VACATION TIME-SHARING OWNERSHIP PLAN. Any arrangement, plan, or similar device, whether by tenancy in common, sale, deed or by other means, which is subject to supplemental agreement or contract for use of the time-sharing unit, whereby the purchaser receives an undivided fee simple ownership interest in and the right to use accommodations or facilities, or both, for a specific period of time during any given year, but not necessarily for consecutive years, which extends for a period of more than one year.

“(9) VACATION TIME-SHARING LEASE PLAN. Any arrangement, plan, or similar device, whether by membership agreement, lease, rental agreement, license, use agreement, security or other means, whereby the purchaser receives a right to use accommodations or facilities, or both, but does not receive an undivided fee simple interest in the property, for a specific period of time during any given year, but not necessarily for consecutive years, and which extends for a period of more than one year.

“Such lease plans shall not include an arrangement or agreement whereby a purchaser in exchange for an advance fee and yearly dues is entitled to select from a designated list of facilities located in more than one state accommodations, of companies which operate in at least nine states in the United States through franchises or ownership, for a specified time period and at reduced rates and under which no interest in real property is transferred.

“(10) VACATION TIME-SHARING PLAN. Either a vacation time-sharing ownership plan or a vacation time-sharing lease plan as defined herein.

“(11) TIME-SHARING UNIT. The actual accommodations and related facilities which are the subject of the vacation time-sharing ownership plan or lease plan.

“(12) SUBSTANTIALLY COMPLETE. All structural components and mechanical systems of all buildings containing or comprising any time-sharing unit, facilities, or accommodations are finished

in accordance with the plans or specifications of the project as evidenced by a recorded certificate of completion executed by an independent registered surveyor, architect or engineer.

“(13) UNIT WEEK OR INTERVAL. A number of consecutive days, normally seven consecutive days in duration, which may reasonably be assigned to purchasers of vacation time-sharing plans by the sellers.

“(14) RECEIVABLE. Any note, contract, promise or any other agreement to pay a fixed or determinable amount of money which, for the purposes of this article, shall not be in arrears for more than 90 days.

“(15) ESCROW AGENT. A federally insured financial institutional doing business in this state or a bonded trust agent bonded in at least the amount of the trust; provided, however, that nothing contained in this article shall operate to prevent investment of funds escrowed pursuant to this article by the bank, trust company or bonded agent and to pay all interest and dividends to the seller of vacation time-sharing plans.

“(16) ESCROW ACCOUNT. Any funds held or maintained by an escrow agent.

“(17) VACATION TIME-SHARING SALES LICENSE. A license issued by the commission authorizing individuals to act as sellers of vacation time-sharing plans.

“(18) LICENSEE. A person having a vacation time-sharing sales license.

“(19) EXCHANGE COMPANY. Any person or business entity and/or operating an exchange program.

“(20) EXCHANGE PROGRAM. Any arrangement allowing owners to exchange occupancy rights with persons owning other time-shares; provided, however, that an exchange program shall not exist if all of the occupancy rights which may be exchanged are in the same time-share property.

“(21) MANAGING AGENT. Any person engaged by the owners association to manage the time-share plan and the time-share property.

“(22) QUALIFYING BROKER. A person who is licensed by the commission as a real estate broker as well as a seller of vacation time-sharing plans and who serves in a supervisory capacity to all other licensees acting in the name of the vacation time-sharing plan which the qualifying broker represents.

“(23) TIME-SHARING PROJECT. All the real property contained as part of a vacation time-sharing plan.

“§34-27-51.

“It shall be a violation of this article for any seller of vacation time-sharing plans to:

“(1) Sell, lease, encumber or convey in any manner or to solicit or advertise such transactions unless the seller has been duly licensed under the provisions of section 34-27-66 hereunder and unless the vacation time-sharing plan and the units thereby affected have first been registered with the commission. Provided, however, that the registration requirements of this article shall not apply to nor restrict the listing and resale of any vacation time-sharing plan when:

“a. The vacation time-sharing plan to be resold is within an existing time sharing facility currently registered with the commission pursuant to the requirements of this article; and

“b. The vacation time-sharing plan to be resold is subject to the identical rules, regulations, conditions or limitations on the use of the accommodations or facilities which affect all other vacation time-sharing plans within that time-sharing facility.

“(2) Fail to provide, at the time of registration, to the commission the following materials, or fail to provide any amendments or changes therein made while sales continue:

“a. A copy of the contract by which the rights and obligations of the parties are established.

“b. Copies of promotional brochures, pamphlets advertisements or other material disseminated to the public in connection with the sale of the vacation time-sharing plan and verbatim scripts of all radio and television advertising in connection therewith.

“c. A statement of the name and type of business entity through which the business of selling vacation time-sharing plans is carried out, including a list of the names and addresses of all of its directors principal officers, and/or partners as well as the names and addresses of any sales personnel soliciting in or from the state of Alabama, and the name and address of the business agent for service of process within the state of Alabama.

“d. Copies of all rules, regulations, conditions or limitations on use of the accommodations or facilities available pursuant to the vacation time-sharing plan.

“e. Copies of all liens, mortgages or other encumbrances on the accommodations or facilities which could affect the rights of the purchaser or his assignee, together with the location, date and filing books and page number where such documents are recorded.

“f. A synopsis of any sales presentation made or to be made by the seller to the purchaser over the telephone or other electronic device.

“g. A projected budget of all recurring expenses which may become the responsibility of time-sharing purchasers.

“h. A copy of the public offering statement to be provided to each prospective purchaser.

“i. Evidence that the time-sharing plan owner or his agent shall furnish a surety bond payable to the state of Alabama in the amount of \$100,000.00 with a surety company authorized to do business in Alabama, which bond shall provide that the obligor therein shall pay up to \$100,000.00 the aggregate sum of all judgments which may be recovered against the vacation time-sharing plan owner or seller for any actual loss or damage arising against such vacation time-sharing plan owner or seller from the activities of the time-sharing plan owner or seller, or their agents or representatives, related to the time-sharing plan. Such bond must remain in effect for as long as the time-sharing plan shall be registered. In the event such bond is revoked by the surety company, the time-sharing owner shall have 10 days in which to obtain a new bond and file such with the commission. The lack of a bond shall be grounds for the suspension of the registration of the time-sharing plan.

“Upon receipt of all items required by this section, the commission shall determine the sufficiency thereof and upon satisfactory compliance with this article, shall issue its order approving their use. The vacation time-sharing plan shall then be deemed registered. Promotional or advertising material developed after the initial registration of a time sharing plan may be used without prior approval of the commission provided that such material is in compliance with this article and further provided that it is submitted to the commission within 10 days after its initial public use.

“(3) Fail to include in all advertising of any vacation time-sharing plan a statement which clearly states that the seller is offering a time-sharing interest.

“(4) Fail to include in all advertising of any vacation time-sharing plan which offers a time-sharing interest of less than fee simple a statement which clearly states that the interest being offered is less than a fee simple ownership interest.

“(5) Effective October 1, 1985, fail to provide each prospective purchaser a public offering statement in such form and under such terms as shall be required by commission rules and regulations.

“§34-27-52.

"It shall be a violation of this article for any owner or business entity offering vacation time-sharing plans for sale to the public to fail to keep among its business records the following:

"(1) A copy of each item required to be submitted to the commission under section 34-27-51 of this article.

"(2) A copy of the contract from each sale of the vacation time-sharing plan, which contract shall be retained for a period of at least three years after parties to the vacation time-sharing plan have completely performed all of their obligations thereunder.

"(3) A list of all employees and independent contractors involved in the development, sale, or advertising of the vacation time-sharing plan or plans, including their last known mailing addresses, which list shall include all current employees and all previous employees whose employment has been terminated within the preceding 36 months.

"§34-27-57.

"(a) It shall be a violation of this article for any seller of vacation time-sharing plans to sell, lease, assign or otherwise transfer the seller's interest in the vacation time-sharing plan or the accommodations or facilities to a third party when such a sale, lease, assignment or other transfer substantially affects the rights of other owners or lessees of the time-share units, unless:

"(1) The third party agrees in writing to:

"a. fully honor the rights of purchasers of the vacation time-sharing plan to occupy and use the accommodations or facilities; and

"b. fully honor rights of purchasers of the vacation time-sharing plan to cancel their contracts and receive an appropriate refund as provided in this article; and

"c. comply with the provisions of this article for as long as the third party continues to sell the vacation time-sharing plan, or for as long as purchasers of the vacation time-sharing plan are entitled to occupy the accommodations or use the facilities, whichever, is longer in time; and

"(2) The commission receives prior written notice of the intent to transfer the seller's interest; and

"(3) Written notice is given to each purchaser of a vacation time-sharing plan affected thereby, by certified mail within 30 days of the transfer.

"(b) The commission shall reserve the right to demand such additional information regarding the transfer as is reasonably necessary to determine to what extent the rights of other owners of

units or unit weeks within the subject time-sharing plan shall be affected and to determine whether the registration of the plan should continue, should be amended, or should be suspended or revoked.

“(c) The provisions of this section shall not be construed to apply to the sale of a single unit or to prevent the seller’s right to sell, discount, or hypothecate for value receivables in favor of any bank, mortgage company, or other lending institution and such transactions shall be exempt from the requirements of the section.

“§34-27-58.

“(a) It shall be a violation of this article for a seller of vacation time-sharing lease plans to fail to:

“(1) Place in escrow 50 percent of the cash and receivables received from the purchasers of such plans, such receivables to be assessed at net principal value.

“a. The purpose of such escrow account is to protect the purchaser’s right to a refund if at any time the accommodations and facilities are no longer available as provided in the contract; ‘Provided however, nothing contained in this section shall operate to deny the seller the option to repair, replace or reconstruct, within a reasonable time, the accommodations or facilities, if destroyed or damaged.’

“b. The purchaser shall be entitled to a refund from the escrow account upon the conditions described above in an amount which represents the buyer’s pro rata share of the moneys therein.

“c. Funds may be withdrawn by the seller from the escrow account in the ratio of the amount of remaining time available for use by the purchaser of the vacation time-sharing lease plan in relation to the total time available to the purchaser at the time of purchase.

“d. The escrow agent shall release or dispense funds from the escrow account to the seller of a vacation time-sharing lease plan only upon receipt of a sworn statement from the seller that the accommodations and facilities have been available for use by the purchaser according to the terms of the purchaser’s contract.

“(2) In lieu of the escrow account provided in subdivision (1), a seller of vacation time-sharing lease plans may:

“a. Assign to an escrow agent receivables, the income from which shall be adequate to pay all liens or encumbrances secured by the time sharing facilities or accommodations.

“Should net income from such escrowed receivables be insufficient to pay all liens or encumbrances as aforesaid, the escrow agent shall



so notify the seller in writing, and the seller shall within 15 days after notice pay unto the escrow agent the amount of such deficit.

“b. Sell, hypothecate or discount receivables, the proceeds from which shall be deposited with an escrow agent and administered in the manner prescribed by paragraph (2) a of subsection (a) of this section.

“(3) Provide the purchaser with liability and property insurance at the seller’s expense for the accommodations and facilities to be used by the vacation time-sharing lease plan purchaser in an amount equal to the replacement cost of such accommodations and facilities, or the maximum amount of insurance available on the accommodations and facilities, according to generally accepted underwriting principles for similar properties in the same area, and to deposit with an escrow agent, annually, sufficient funds for the payment of all insurance premiums, taxes and assessments levied against the accommodations and facilities; or, in the alternative, provide for the assessment against the purchaser by an association or duly appointed agent for the owners of such escrow funds for all costs including insurance premiums, taxes, assessments, maintenance repairs and management fees.

“(4) Provide the purchaser with an instrument, in recordable form, which provides notice to all subsequent creditors of the seller of the existence of the vacation time-sharing plan rights of the purchaser. Such instrument shall be provided to the purchaser by the seller at the time of signing of the contract. When recorded, such instrument shall serve to protect the purchaser’s interest in the seller’s accommodations from any claims by subsequent creditors of the seller.

“(5) Provide a document which explains the content, purpose and protection afforded to the purchaser by the documents described in subdivision (4) along with the procedure necessary to follow in order to secure to the purchaser the rights and protections which such documents provide.

“(b) It shall be a violation of this article for a seller of vacation time-sharing ownership plans to fail to:

“(1) Deposit with an escrow agent no less than 50 percent of the cash and receivables received from the purchasers of such plans, such receivables to be assessed at net principal value.

“a. The purpose of the escrow account required hereunder is to protect the purchaser’s ownership interest in the accommodations or facilities and to provide funds from which periodic payments can be made to retire any outstanding indebtedness on the time-sharing facilities or accommodations.

"b. The escrow agent shall release or dispense to the seller of the vacation time-sharing ownership plan funds from the escrow account, at least quarterly but not more frequently than monthly, in an amount which shall not exceed 100 percent of the sum of all accrued indebtedness secured by the time-sharing accommodations or facilities which funds shall be used by the seller solely for the retirement of that indebtedness.

"c. Prior to the release or dispensing of such escrow funds, the seller shall furnish the escrow agent with a sworn statement which reveals by category the total amount of all liens or indebtedness secured by the time-sharing accommodations or facilities, the amount of indebtedness anticipated during the next succeeding reporting period and the amount of any deficit or surplus accruing from the preceding reporting period.

"(2) In lieu of the escrow account provided in subdivision (1) of this subsection (b), a seller of vacation time-sharing ownership plans may alternatively:

"a. Assign to an escrow agent receivables, the income from which shall be adequate to pay all liens or encumbrances secured by the time-sharing facilities and accommodations.

"Should net income from such escrowed receivables be insufficient to pay all recurring debts as aforesaid, the escrow agent shall so notify the seller in writing and the seller shall within 15 days after notice pay into the escrow account the amount of such deficit.

"b. Sell, hypothecate or discount receivables, the proceeds from which shall be deposited with an escrow agent and administered in the manner prescribed by paragraph (2)a of this subsection (b).

"(3) Provide the purchaser with liability and casualty insurance at the seller's expense for the accommodations and facilities to be used by the vacation time-sharing lease plan purchaser in an amount equal to the replacement cost of such accommodations and facilities, or the maximum amount of insurance available on the accommodations and facilities, according to generally accepted underwriting principles for similar properties in the same area, and to deposit with an escrow agent, annually, sufficient funds for the payment of all insurance premiums, taxes and assessments levied against the accommodations and facilities. In the alternative, provide for the assessment against the purchaser by an association or duly appointed agent for the owner of such escrow funds for all costs including insurance premiums, taxes, assessments, maintenance, repairs and management fees.

"(c) Any escrow account kept pursuant to this section may be discontinued when all liens or encumbrances on the subject of time-sharing accommodations and facilities have been fully discharged.

When the value of the escrow account equals the sum of all mortgages, liens and indebtedness on the project secured by project property, the seller may reduce his payments into the escrow account to monthly amounts which will maintain the value of the escrow account at an amount equal to the total obligation represented by all mortgages, liens and indebtedness.

“(d) The commission may at its discretion waive the requirement for a time-share plan to maintain an escrow account pursuant to this section upon proof satisfactory to the commission that the unit weeks being sold or leased through the respective time-sharing plan are being released from all liens or encumbrances at, or prior to, the time of the sale or lease.

“§34-27-60.

“It shall be a violation of this article for any seller of vacation time-sharing plans to:

“(1) Use any promotional device, including but not limited to sweepstakes, lodging certificates, gift awards, premiums, or discounts, without fully disclosing that such promotional devices are being used for the purpose of soliciting the sale of vacation time-sharing plans and without fully disclosing the fair market value of each award or prize offered and the approximate odds of receiving each award or prize offered.

“(2) Use any promotional device as set forth above to obtain the names and addresses of prospective purchasers without fully and prominently disclosing that names and addresses so acquired will be used for the purpose of soliciting the sale of the vacation time-sharing plans.

“(3) Misrepresent the amount of time or period of time the accommodations and facilities will be available to any purchaser.

“(4) Misrepresent or deceptively represent the location of the offered accommodations and facilities.

“(5) Misrepresent the size, nature, extent, qualities or characteristics of the offered accommodations and facilities.

“(6) Misrepresent the nature or extent of any services incident to the accommodations and facilities.

“(7) Make any misleading or deceptive representations with respect to the contents of the contract or the buyer's rights, privileges or benefits thereunder.

“(8) Fail to honor and comply with all provisions of the contract with the purchaser.

“(9) Misrepresent the conditions under which a customer may exchange his rights to an accommodation in one location for rights to an accommodation in another location.

“(10) Include in any contract any provision purporting to waive any right or benefit provided for purchasers under this article, or to seek or solicit such a waiver.

“(11) Do any other act which constitutes fraud, misrepresentation or failure to make a disclosure of a material fact.

“(12) Perform any act for which a vacation time-sharing license is required unless the seller is either exempted from the license requirement, a duly authorized and licensed qualifying broker, or a duly licensed seller acting under the sponsorship and supervision of a qualifying broker.

“(13) Allow an unlicensed person who is engaged or employed by him or who is under his control or supervision to perform any act for which a time-sharing sales license is required.

“(14) Present to the Alabama real estate commission, as payment for a fee or fine, a check that is returned due to there being insufficient funds in the account upon which it was drawn or due to such account being closed or not in existence.

“§34-27-61.

“The commission may upon its own motion, or upon the verified complaint in writing of any person, hold a hearing regarding an alleged violation by any person or business entity of this article. Any person found guilty of having violated any provision of this article or any rule, regulation or order of the commission shall be subject to the refusal of a license, if not licensed; or, if licensed, to the suspension or revocation of such license and/or a monetary penalty of not less than \$25.00 nor more than \$1,000.00.

“Such hearing shall be held in a manner prescribed by the Alabama real estate license law and the rules and regulations of the Alabama real estate commission. The reinstatement of a license suspended or revoked as a result of a violation under this article may be made conditional upon the fulfillment of such reasonable conditions as are imposed by the commission.

“The penalties and procedures outlined in this section shall not be construed to supersede or conflict with penalties and procedures outlined in other sections of this article.

“Provided, that a deficiency in an escrow account required by this article, which results solely from the cancellation or worthlessness of receivables previously placed in escrow, shall not be considered a

violation of this article. In the event of an escrow deficiency, a lender who has advanced funds to a project shall have no liability to contribute funds to the escrow to cure the deficiency, and the lender's lien on the property shall not be affected by the deficiency.

“§34-27-62.

“(a) The Alabama real estate commission shall be responsible for the enforcement and implementation of this article, and the attorney general of the state of Alabama, or the district attorney of any county of the state of Alabama upon request by the commission, shall assist the commission in the enforcement of this article and the prosecution of violations hereunder. The provisions of this article shall not be construed to limit in any manner the right of any party to bring a private action to enforce the provisions of this article. In addition to the administrative enforcement of this article by the commission, the following shall be Class A misdemeanors triable in the courts of Alabama:

“(1) It shall be a Class A misdemeanor for any person, natural or legal, while within the borders of the state of Alabama, to participate in the sale or attempted sale of any time-share plan unless licensed to do so by the commission or exempted from such licensure by the laws of the state of Alabama or the United States, regardless of whether the vacation time-sharing plan is itself located within the state of Alabama.

“(2) It shall be a Class A misdemeanor for any person, natural or legal, to or attempt to, sell, lease or otherwise market any interest in any vacation time-sharing plan not registered with the commission as a vacation time-sharing plan or exempted from such registration by the laws of the state of Alabama or the United States, regardless of whether the vacation time-sharing plan is itself located within the state of Alabama.

“(b) Any time-sharing sale made in Alabama between a time-share purchaser and a seller for the purchase or lease of a time-share week or weeks in a vacation time-share plan which is not registered with the commission, or whose registration is under suspension, or which is under an order from the commission to cease and desist from sales, shall be voidable by the purchaser. An action to void such a transaction must be brought by the purchaser within three years of the date of the making of the lease or sales agreement. In any such action, the prevailing party may be awarded reasonable attorney fees as determined by the court.

“§34-27-63.

"If a seller files with the commission any vacation time-sharing plan or any amendment thereto which describes or concerns time-sharing units, accommodations or facilities not substantially completed, the seller shall file with the commission the following:

"(1) A notarized statement showing all costs involved in completing each phase of the project.

"(2) A notarized statement of the time of completion of construction of each phase of the project.

"(3) Satisfactory evidence of sufficient funds to cover all costs to complete the project.

"(4) A copy of the executed construction contract and any other contracts for the completion of the project.

"(5) A 100 percent payment performance bond payable to the state of Alabama from a surety company authorized to do business in Alabama, covering the entire cost of construction necessary to complete the project.

"(6) If purchasers' funds are to be used in the construction of the project, an executed copy of the escrow agreement with an escrow company or financial institution authorized to do business with the state, which provides that:

"a. Disbursements of purchasers' funds may be made from time to time to pay for construction of the project; architectural, engineering, finance, and legal fees; and other costs for the completion of the project in proportion to the value of the work completed by the contractor as certified by a registered surveyor, architect, or engineer on bills submitted and approved by the lender of construction funds or the escrow agent;

"b. Disbursements of the balance of purchasers' funds remaining after completion of the project may be made only after either the escrow agent or lender receives satisfactory evidence that the period for filing mechanics' and materialmen's liens has expired, or the right to claim those liens has been waived or other adequate provision has been made for satisfaction of any claimed mechanics' or materialmen's lien; and

"c. Any other restrictions relative to the retention and disbursement of purchasers' funds required under the rules of the commission have been met; and

"d. Any other materials or information required under the rules of the commission have been provided.

"(7) The commission shall not register or issue any order approving any vacation time-sharing plan unless the commission determines, on the basis of materials submitted by the developer, that

the time-sharing units, accommodations, or facilities or any additions thereto will be completed.

“§34-27-64.

“(a) For the registration of all vacation time-sharing plans and the accommodations and facilities affected thereby which are located within the state, there shall be paid to the commission the initial sum of \$500.00, together with an annual renewal fee of \$200.00. Provided that effective October 1, 1985, the annual renewal fee shall become \$500.00. In addition to submitting an annual renewal fee, each time-sharing plan must submit an audited annual financial statement of the entity or person in whose name the plan is registered done by a certified public accountant and such other materials as the commission shall require for an annual registration renewal.

“(b) For the registration of all vacation time-sharing plans and the accommodations and facilities affected thereby which are located outside the state, there shall be paid to the commission the initial sum of \$500.00, together with an annual renewal fee of \$200.00. Provided that effective October 1, 1985, the annual renewal fee shall become \$500.00. All books, files, accounts and other documents pertaining to the advertisement and sale of vacation time-sharing plans located outside the state shall be subject to examination by the commission and the business entity whose documentation is being examined shall pay a fee of \$500.00 plus the actual expenses, including the cost of transportation, of the examiner representing the commission while he is absent from this office for purposes of conducting the examination.

“(c) If the commission determines that the registration or operation of any vacation time-sharing plan violates the provisions of this article in such manner as indicates bad faith or dishonesty, the commission, after notice and hearing, may assess all reasonable cost of the investigation and prosecution of such violations.

“§34-27-66.

“(a) Any person desiring to act as a seller of vacation time-sharing plans shall file with the commission a written application upon such form as the commission shall designate and shall pass to the satisfaction of the commission the examination hereinafter prescribed.

“(b) Prerequisites for taking the vacation time-sharing sales examination are as follows:

“(1) Evidence satisfactory to the commission that the applicant bears a good reputation for honesty and truthfulness.

“(2) The applicant should not have been convicted of any criminal offense involving moral turpitude or of any felony in this or any other state.

“(3) The applicant must be a permanent resident of Alabama and at least 19 years of age.

“(4) The applicant must be a citizen of the United States or shall possess a certification of lawful permanent residence issued by the United States government.

“(c) The commission shall prepare and conduct an examination on the fundamentals of this article and related topics and shall schedule such examination at least quarterly. No applicant shall be entitled to examination unless all prerequisites enumerated above have been met as determined by the commission. The minimum passing grade shall be 70 percent.

“(d) Every applicant shall pay the sum of \$75.00 for each examination taken. Should an applicant be scheduled and issued a permit for an examination and fail to appear, the entire amount of the examination fee will be forfeited. Liability for forfeiture occurs at the time the examination permit is issued. The applicant shall be allowed up to 60 days after notice of passing the examination to either be designated as a qualifying broker or to secure a qualifying broker under whom to be licensed. In the alternative, the applicant may place his license on inactive status with the commission, within the allotted 60-day period. Every applicant shall also pay a license fee of \$50.00 upon successful completion of the examination, provided he submits the license fee along with appropriate documentation to the commission within the allotted 60-day period. The 60-day period shall begin on the date which the results of the applicant's examination are made available to the applicant. The results shall be mailed from the commission office, and the applicant will be considered to have received such notification three days from the date of mailing. Should an applicant not become licensed within 60 days after receiving notification of his having passed the examination, he shall be required to again meet the requirements of an original applicant before becoming licensed, including the taking and passing of the examination. The commission shall be entitled to contract with any outside source to prepare and conduct vacation time-sharing sales examinations in its behalf and to pay for the reasonable cost thereof from the examination fees collected.

“(e) Vacation time-sharing sales licenses are due to be renewed annually on or before August 31, on a form prescribed by the commission. September 30 shall be the annual expiration date for such licenses. Any license renewed after August 31 and prior to January 1 of the following year shall be subject to a penalty fee of



\$15.00 in addition to the annual license fee of \$50.00. On January 1 of the year following the expiration of a vacation time-sharing sales license, the license may no longer be renewed, and the former license holder shall be required to again meet the requirements of an original applicant before again becoming licensed, including the taking and passing of the license examination. Upon submission of a renewal request in such form as the commission shall prescribe and payment of a \$50.00 renewal fee, the commission shall issue the appropriate license.

“(f) The qualifying broker for a vacation time-sharing plan must meet all the general requirements for a time-sharing sales license and must have a current, active real estate broker’s license issued under the Alabama real estate license law as well as a time-sharing sales license. If the qualifying broker is not licensed on active status with a real estate company, he may place his real estate broker’s license on active status in the name of the time-sharing plan.

“(g) Each qualifying broker shall have the duty and responsibility of supervising each seller licensed under him and insuring that every seller licensed under him, as well as the vacation time-sharing plan for which he is the qualifying broker, complies with the provisions of this chapter, and the broker shall be responsible to any injured party for actual damages caused to such party by any violation of this chapter by any vacation time-sharing plan or seller for whom he is acting as qualifying broker.

“(h) There shall be a license transfer fee of \$50.00 for any of the following: A change of qualifying broker; a change of name or address of the vacation time-sharing plan; a change of name of a licensee; a change of employment by a licensee; or the activation of an inactive license.

“(i) A representative of the vacation time-sharing plan authorized to do so may designate an office located off the site of the time-sharing project as a branch sales office of the vacation time-sharing plan provided that a qualifying broker is designated for each such branch sales office.

“(j) A real estate company licensed by the commission may act as an agent for the purpose of reselling time-shares for persons who each own no more than four unit weeks of a given time-sharing plan provided that the contract for such resale shall meet all the requirements of a contract for the initial sale of a vacation time-sharing interest, including the nonwaivable right of the purchaser to cancel the contract within the specified five-day period; and further provided that the qualifying broker for such real estate company be licensed as a time-share seller by the commission and that any sales agent

of the company who participates in the sale of time-shares be licensed by the commission as a time-share seller.

“(k) No applicant to be a seller of vacation time-sharing plans shall be issued a license by the commission unless the applicant is either designated as a qualifying broker by a representative of a vacation time-sharing plan authorized to make such a designation, or unless the applicant is sponsored by a duly authorized qualifying broker who has signed a written statement accepting sponsorship of the applicant, or unless the applicant has his license issued on inactive status and maintained at the office of the commission.

“(l) No vacation time-sharing licensee shall perform any of the acts authorized by such license until the license certificate is in his actual possession, if the licensee is a qualifying broker, or in the possession of his sponsoring broker, if the licensee is not a qualifying broker.

“(m) A licensee may place his license on inactive status with the commission for a period of up to 24 consecutive months and may renew his license while it is on inactive status. No license which is on inactive status will be reactivated without the commission receiving evidence that the licensee's surety bond is in effect. Any license which has been on inactive status for longer than 24 consecutive months shall automatically expire as of the day following the 24-month period.

“(n) It shall be the duty of each licensee to notify the commission of any change of address, business or residential, within 30 days of such change.

“§34-27-67.

“Every vacation time-sharing plan for sale or offered for sale in this state shall be registered with the Alabama real estate commission as follows:

“(1) Upon receipt of an application for registration in the required form, the commission shall forthwith initiate an examination to determine that:

“a. The seller may convey or cause to be conveyed the vacation time-sharing plan offered for sale if the purchaser complies with the terms of the offer.

“b. The advertising material and general promotional plan are not false or misleading as determined by the commission.

“c. The requirements of this article and the rules of the commission have been fulfilled.

“d. The seller has not, or, if a corporation, its officers, directors, and principals have not been convicted of any crime involving land

dispositions, any crime of moral turpitude, any securities law violation, fraudulent business activity, or any aspect of the vacation time-sharing business in this state, the United States, or any other state or foreign country with the 10 years immediately preceding the date of application, and has not been subject to any injunction or administrative order within the preceding 10 years involving any of the activities above.

“(2) Upon receipt of the application for registration in required form, the commission shall issue a notice of filing to the applicant. If within 45 days from the date of the notice of filing, the commission affirmatively determines upon inquiry and examination that the requirements of this article have been met, the commission shall enter an order registering the vacation time-sharing plan or rejecting the registration. If no order of rejection is entered within 45 days from the date of notice of filing, the vacation time-sharing plan shall be deemed registered unless the applicant has consented in writing to a delay. No reasonable request for an extension of time by the commission shall be withheld; provided that if the commission determines upon inquiry and examination that any of the requirements of this article have not been met, the commission shall notify the applicant that the application for registration must be corrected in the particulars specified within 15 days. If the requirements are not met within the time allowed, the commission shall enter an order rejecting the registration which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for 20 days during which time the applicant may petition for reconsideration and shall be entitled to a hearing.

“§34-27-68.

“(a) If it appears that a person, firm, corporation, or any business entity has engaged, or is about to engage in an act or practice constituting a violation of a provision of this article or rule or order of the commission, the commission, through the attorney general, may institute legal actions to enjoin the act or practice and to enforce compliance with this article or any rule or order of the commission or to have a receiver or conservator appointed. To prevail in such action, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof.

“(b) The commission may:

“(1) Make any public or private investigation which it deems necessary, either within or outside of this state, to determine whether any person has violated or is about to violate this article or any rule or order hereunder, or to aid in the enforcement of this article or in the prescribing of rules and forms hereunder.

“(2) Require or permit any person to file a statement in writing, under oath or otherwise as the commission may determine, as to all facts and circumstances concerning the matter to be investigated.

“(3) For the purpose of any investigation or proceeding hereunder, the commission or any officer designated by rule may administer oaths or affirmations, and upon its own motion or upon request of any party shall subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts of any other matter reasonably calculated to lead to the discovery of material evidence.

“(4) Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected hereby, the commission, through the attorney general may apply to the circuit court for an order compelling compliance.

“(5) Issue an order requiring the seller to cease and desist from any unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this article, if, after notice and hearing, the commission determines that a seller has violated any provisions of this article.

“(6) Make findings of fact in writing that the public interest may be harmed by delay in issuing an order and in such case may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the commission, whenever possible by telephone or otherwise, shall give notice of the proposal to issue a cease and desist order to the seller. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

“(7) Revoke or suspend the registration of a vacation time-sharing plan if, after notice and hearing upon a written finding of fact, it determines that the seller or sellers in whose name the plan is registered, or any agent therefor, has:

“a, Failed to comply with the terms of any order of the commission; or

“b. Been convicted in any court of competent jurisdiction subsequent to filing of the application for registration, of a crime involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing; or

“c. Had a final judgment rendered against him in any court of competent jurisdiction, when such judgment involved the sale, marketing or operation of any time-share plan or real estate transaction; or

“d. Disposed of, concealed or diverted any funds or assets of any person so as to defeat the rights of vacation time-sharing plan purchasers; or

“e. Failed to faithfully perform any stipulation or agreement made with the commission as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or advertisement; or

“f. Made an intentional misrepresentation or concealed material fact in an application for registration; or

“g. Make a misrepresentation or concealed any material fact in the sale, marketing or operation of a registered time-sharing plan; or

“h. Failed to comply with the terms of a sales contract; or

“i. Failed to make timely delivery of a deed to any purchaser to whom a deed is due to be delivered; or

“j. Violated any other provision of this article or any rule or regulation of the commission.

“The reinstatement of a registration suspended or revoked as a result of a violation under this article may be made conditional upon the fulfillment of such reasonable conditions as are imposed by the commission.

“(8) Issue a cease and desist order instead of revoking a registration if it finds, after notice and hearing, that the seller has been guilty of a violation for which revocation could be ordered.

“(9) In lieu of, or in addition to, revoking or suspending a registration or issuing a cease and desist order, impose a penalty of not less than \$100.00 nor more than \$2,000.00 per violation upon the seller(s) in whose name(s) the plan is registered if it finds, after notice and hearing, that such seller(s), or any agent therefor, has been guilty of a violation for which revocation or suspension could be ordered.”

**Section 2.** Section 34-27-9, Code of Alabama 1975, is hereby repealed.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-751

H. 280—Rep. Carothers

### AN ACT

To repeal Sections 22-30-5 and 22-30-7, Code of Alabama as amended, which provide for the dedication and acceptance of hazardous waste storage facilities and disposal sites.

To amend Sections 22-30-4 and 22-30-18, Code of Alabama 1975, as amended, so as to authorize the Alabama Department of Environmental Management to issue and serve subpoenas requiring persons to give testimony or produce papers, documents, records and tangible things and to enforce obedience to such subpoenas; to provide for monitoring of commercial disposal sites; to clarify the public availability and confidentiality of records and information obtained by the Alabama Department of Environmental Management; to permit the Alabama Department of Environmental Management to require monitoring and sampling; and to clarify provisions relating to disposal fees.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 22-30-4 and 22-30-18 Code of Alabama 1975, as amended, are hereby amended to read as follows:

“22-30-4

“(a) The board has exclusive regulatory authority over all hazardous waste transporting, storage, treatment and disposal or other management practices in the state insofar as these wastes affect the public health and environment, and shall, from time to time, investigate and monitor sources, transportation, storage, treatment and disposal of hazardous waste.

“(b) In exercising such exclusive authority, the board shall provide sufficient personnel with training in hazardous waste management and a minimum of a bachelor's degree in the sciences or engineering to comprehensively monitor all commercial sites for the disposal of a hazardous wastes. Such personnel shall be hired by the state health officer and shall be members of the board's staff.

“(1) For the purposes of this section, a commercial site for the disposal of hazardous waste is defined as one receiving hazardous waste not generated on site for disposal and to which a fee is paid for such disposal.

“(2) Said personnel shall primarily be responsible for the monitoring of landfill and disposal programs at such sites, but their responsibilities shall include the monitoring and inspection of all activities related to such on site programs whether on site or off site. These responsibilities shall include but not be limited to monitoring of transportation near the site, monitoring of testing procedures, monitoring of the unloading of wastes, monitoring of waste storage, monitoring waste disposal and monitoring of on site and off site areas of known or suspected contamination.

“(3) To finance such monitoring operations, there is hereby levied on the operators of such sites a fee of \$1.00 per ton on all waste received for disposal at such sites which fee shall be payable to the board by certified check each month. Any proceeds from such fees over and above those necessary to adequately provide for such monitoring operations may be used by the board for general operation.”

(c) The state health officer, or any employee of the board designated by the state health officer, may administer oaths to witnesses and may conduct hearings or investigations, and the state health officer may sign and issue subpoenas requiring persons to appear before him, the board or any employee of the board designated by the state health officer to give testimony or produce papers, books, accounts, payrolls, documents (including writings, drawings, graphs, charts, photographs, electronic readings and other data compilations from which information can be obtained, translated, if necessary, by the person subpoenaed, through detection devices into reasonably usable form), records or tangible things and the board through its designated employees, shall have the power to serve said subpoenas upon such person either personally or by sending a copy of such subpoena through the United States mail, postage prepaid, which said mail shall be registered or certified with return receipt attached, such service being complete when said registered or certified mail shall be delivered to said person and such receipt returned to the board, or its designated employee, signed by the person sought to be subpoenaed. Obedience to a subpoena issued by the board or any duly designated employee of the board may be enforced by application to any judge of the circuit court of the county in which said subpoena was issued or to the judge of any circuit court in which such person subpoenaed resides in the same manner as is provided by law for the grand jury of a county to enforce its subpoenas and with the same penalty as provided therefor for the failure of any person failing or refusing to comply with such subpoena. The fees of witnesses for attendance and travel shall be the same as fees of witnesses before courts of record and shall be paid from the funds of the board.

“Every generator, transporter and owner or operator of a treatment or storage facility or disposal site of hazardous wastes shall establish and maintain such records for a three-year period, make such reports and furnish such information pertaining to the generation, transportation, treatment, storage or disposal of said waste, and install, use and maintain such monitoring equipment or methods, sample such wastes, materials, soils or waters, in accordance with such methods and procedures, at such locations and times, as the board shall require. Any records, reports or information obtained under this chapter shall be available to the public; except, that upon a showing satisfactory to the board by the person submitting the records, reports or information that the records, reports or information, or particular part thereof, other than manifests and reports showing the quantities and characteristics of hazardous wastes generated, transported, treated, stored or disposed by any person, to which the board has access, if made public, would divulge production or sales figures or methods, processes or production unique to such person or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the board shall consider such record, report or information, or particular part thereof, confidential in the administration of this chapter. Nothing herein shall be construed to prevent disclosures of any such report, records or information to federal, state or local representatives as necessary for the purposes of the administration of any federal, state or local hazardous waste control laws or when relevant in any proceeding under such laws.

**Section 2.** Sections 22-30-5 and 22-30-7, Code of Alabama 1975, as amended, are hereby repealed.

**Section 3.** All laws or parts of laws, special, local or general, which conflict or are inconsistent with this Act are hereby repealed, insofar as such laws or parts of laws conflict or are inconsistent with this Act.

**Section 4.** The provisions of this Act are severable. If any part of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 5.** This Act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.



Act No. 85-752

H. 667—Reps. White (F), Faulk, and Reed

## AN ACT

To enact the Interstate Corrections Compact into law and to provide for the permanent or temporary interstate transfer of offenders and prisoners between Alabama and such other states as may legally join into the interstate corrections compact and contract for said transfer with the Commissioner of the Alabama Department of Corrections.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** This act will be cited as the Interstate Corrections Compact Act.

**Section 2.** The Interstate Corrections Compact is hereby enacted into law and entered into by the State of Alabama with any and all states legally joining therein, in accordance with its terms, in the form substantially as follows:

## INTERSTATE CORRECTIONS COMPACT

## Article I

## (Purpose and Policy)

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment, and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

## Article II

## (Definitions)

As used in this compact, unless the context clearly requires otherwise:

(1) "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico;

(2) "sending state" means a state party to this compact in which conviction or court commitment was had;

(3) "receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had;

(4) "inmate" means a male or female offender who is committed, under sentence to or confined in, a penal or correctional institution;

(5) "institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates defined in (4) above may lawfully be confined.

### Article III (Contracts)

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(1) its duration;

(2) payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

(3) participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

(4) delivery and retaking of inmates;

(5) such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact entered into by the authority of or pursuant thereto, and nothing in any such contact shall be inconsistent therewith.

### Article IV (Procedures and Rights)

(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials

may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state, provided, that the sending state shall continue to be obligated to such payments as may be pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending

state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations, or have such obligations modified or his status changed on account of any action or proceedings in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

#### Article V

##### (Acts Not Reviewable in Receiving State: Extradition)

(a) Any decisions of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other from of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states' party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the

sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

#### Article VI (Federal Aid)

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending or the receiving state have made contractual provision; provided, that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefrom.

#### Article VII (Entry into Force)

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective an binding as to any other of said states upon similar action by such state.

#### Article VIII (Withdrawal and Termination)

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

#### Article IX (Other Arrangement Unaffected)

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

Article X  
(Construction and Severability)

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

**Section 3.** The commissioner of the department of corrections is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular and he may in his discretion delegate this authority to an official designee. In order to develop an effective corrections policy, the commissioner of the department of corrections is expressly authorized to enter into contracts with other states that have legally joined into the Interstate Corrections Compact as contained in Section 2 of this act. Said contract shall be negotiated between the commissioner of the department of corrections or his designee and such authority as the other state shall legally designate to negotiate such contracts, and the commissioner of the department of corrections is empowered to sign, obligate or otherwise consummate such contracts for the State of Alabama.

**Section 4.** This act shall take effect June 1, 1985, and all acts and parts of acts inconsistent herewith are hereby repealed.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-753

H. 627—Reps. Starkey, Goodwin,  
and Clark (D)

AN ACT

To relate to the authority of the highway director to administer public transportation program; to amend sections 23-1-21.1 and 23-1-21.2, Code of Alabama 1975, so as to provide further for such authority of the highway director.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 23-1-21.1 and 23-1-21.2, Code of Alabama 1975, are hereby amended to read as follows:

“§23-1-21.1.

“The following terms, whenever used or referred to in this section and sections 23-1-21.1 and 23-1-21.2, shall have the following meanings, except in those instances where the context clearly indicates a different meaning:

“(1) **DIRECTOR.** The director of the state of Alabama highway department.

“(2) **PUBLIC TRANSPORTATION.** Transportation which is appropriate to transport people by bus, rail or other conveyance, serving the general public. The terms ‘mass transportation’, ‘mass transit’, ‘public transit’, ‘ridesharing’, ‘carpooling’, ‘vanpooling’, and ‘buspooling’ are included within this definition and shall be considered synonymous with ‘public transportation’.

“(3) **MUNICIPALITY.** Any city, town, or like governing body.

“(4) **COUNTY.** Any county in the state of Alabama.

“(5) **TRANSIT AUTHORITY.** Any transit authority organized within the state or authority organized to serve a metropolitan or urbanized area which borders on the state boundary.

“(6) **LOCAL ENTITIES.** Municipalities, cities, towns, counties, business and nonprofit corporations, transit authorities, planning bodies, or similar organizations or consolidations thereof, including those bordering on the state boundary.

“(7) **PLANNING BODY.** Any planning organization duly constituted under state law, whether a city, county, or regional planning commission, or a metropolitan planning organization.

“(8) **COMPREHENSIVE TRANSPORTATION PLANNING PROCESS.** A continuing planning process carried on cooperatively between the state and local entities for the purpose of transportation planning.

“§23-1-21.2.

“The director, acting alone or through, and in cooperation with local entities, is hereby delegated the authority to:

“(1) Enter into agreements with local entities to provide public transportation and to administer any program or programs, whether rural or urban, relative to public transportation resulting from federal transportation legislation. This shall include but not be limited to

applying for, accepting, and expending federal public transportation funds in accordance with applicable federal laws and regulations.

“(2) Enter into agreements with the United States for federal assistance for public transportation.

“(3) Enter into agreements with local entities to perform and/or cooperate in the performance of transportation planning for public transportation improvements. However, the director shall not perform such planning until such time as the local entities affected entered into agreement with the director to carry out a planning process.

“(4) Provide any available technical assistance to local entities for formulating a program of public transportation projects to assure that said projects are in accordance with the comprehensive transportation planning process where such process is established and is a prerequisite for federal assistance.

“(5) Administer any state funds authorized from time to time by the legislature for the purpose of public transportation.

“(6) Develop and promulgate such rules and regulations as are determined necessary to insure compliance with federal laws and regulations.”

**Section 2.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-754

H. 542—Rep. Holley

## AN ACT

Relating to the subsistence allowance for certain law enforcement officers; to amend Section 36-21-2, Code of Alabama 1975, so as to provide that investigators employed by district attorneys shall be paid such allowance; and to make a supplemental appropriation for fiscal year 1985-86 to cover the cost.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 36-21-2, Code of Alabama 1975, is hereby amended to read as follows:

“§36-21-2.

“(a) Any state law enforcement officer of the state of Alabama who is employed by the department of public safety, department of



conservation and natural resources, Alabama alcoholic beverage control board, department of agriculture and industries, Alabama department of forensic sciences, the transportation enforcement division of the Alabama public service commission or any investigator employed by a district attorney on a full-time basis, shall receive a subsistence allowance of \$8.00 for each working day of a pay period while engaged in the performance of his duties as a law enforcement officer. This allowance shall be in addition to all other compensation, expenses and allowances provided for such officers.

“(b) It is the legislative intent of the legislature that the subsistence allowance provided by this section is to be solely a subsistence expense allowance for purpose of providing meals while said officers are on duty, and is not to be considered as compensation under the laws of this state. It is the legislative intent that this subsistence allowance shall not be subject to any income or other taxes levied by the state of Alabama or the federal government.”

**Section 2.** There is hereby appropriated from the General Fund the amount necessary to fund the provisions of this act for fiscal year 1985-86.

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-755

H. 590—Reps. Holley, Coburn,  
and Johnson (Roy)

### AN ACT

To create the Pollution Control Grant Fund and authorize the Alabama Department of Environmental Management to make grants in accordance with any terms or stipulations attached to moneys deposited into the fund or to make grants to any county, municipality or public corporation, agency or instrumentality from such fund for the purpose of pollution control, abatement or prevention and to adopt rules and regulations to carry out the provisions of this Act.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created a fund known as the pollution control grant fund. This fund shall consist of (1) all appropriations made to the fund; and (2) all grants, gifts, bequests or donations made to the fund from any source whatsoever. This fund shall be used and expended by the Alabama department of environmental

management in accordance with the terms of the appropriation, gift, bequest, grant or donation from which said moneys are derived and in the absence of such terms or stipulations, shall be expended by said department in accordance with the provisions of Section 2 of this Act. All necessary expenses of said department in implementing the provisions of this Act shall likewise be paid out of the fund on the requisition of the director of said department as may be deemed advisable.

**Section 2.** Except as provided in Section 1 of this Act, the Alabama department of environmental management is authorized to make grants to any county, municipality or public corporation, agency or instrumentality organized under the laws of the state, for the purpose of carrying out any air, land or water pollution control, prevention or abatement practices, measures, experiments or research, from the pollution control grant fund and to enter into and carry out contracts or agreements in connection therewith and include in any contract or agreement such conditions as it may deem reasonable and appropriate.

**Section 3.** Acting through the environmental management commission, the Alabama department of environmental management is authorized to promulgate rules, regulations and standards to carry out the provisions of this Act.

**Section 4.** All laws or parts of laws, special, local or general, which conflict or are inconsistent with this Act are hereby repealed, insofar as such laws or parts of laws conflict or are inconsistent with this Act.

**Section 5.** The provisions of this Act are severable. If any part of this Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** This Act shall become effective immediately upon its passage and approval by the governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-756

H. 1045—Rep. Buskey (James)

### AN ACT

To amend Sections 32-3-41 and 37-4-23, Code of Alabama 1975 relating to payment of inspection and supervision fees paid by utilities and transportation companies so as to provide that such utilities and transportation companies with gross intrastate

receipts in excess of \$60,000,000.00 per calendar quarter be required to pay inspection and supervision fees based upon such quarter rather than the preceding fiscal year.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Section 37-2-41 of the Code of Alabama 1975 is hereby amended to read as follows:

‘§37-2-41

“(a) Each transportation company doing business in this state and subject to the control and jurisdiction of the commission with respect to its rates and service regulations shall pay quarterly to the commission, beginning November 1, 1985 and on each quarter thereafter, February 1, May 1, August 1, and November 1 of each year, a fee for the inspection and supervision of such business during the next preceding fiscal year. Such inspection and supervision fee shall be paid by such transportation companies in addition to any and all property, franchise, license, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the state, and no part of such inspection and supervision fees shall be allowed to any county or municipality of this state. Such inspection and supervision fees shall be measured by the amount of gross receipts of each such transportation company for the fiscal year next preceding the dates herein fixed for the payment of the same, except that in case of such transportation companies engaged in interstate business, the fees shall be measured by the gross receipts of such transportation companies from intrastate business only, for such preceding fiscal year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: A fee of \$2.50 per \$1,000.00 for the first \$100,000.00 or less of such gross receipts; a fee of \$2.00 per \$1,000.00 for each additional \$1,000.00 of such gross receipts up to and including \$1,000,000.00 thereof; a fee of \$1.50 per \$1,000.00 for each additional \$1,000.00 of such gross receipts over \$1,000,000.00 thereof, but in no case shall said fee be less than \$25.00, which shall be the minimum inspection and supervision fee to be paid by any transportation company. However, all transportation companies with gross intrastate receipts in excess of \$60,000,000.00 per calendar quarter will continue to submit the quarterly payment of fees, as due on the intrastate gross receipts of the fiscal year ended September 30, 1984, through August 1, 1985. On September 1, 1985 such companies shall pay fees due for the calendar quarter ended December 31, 1984. Beginning November 1, 1985 such companies shall pay over on a quarterly basis beginning with the calendar quarter ended March 31, 1985 and henceforth for the calendar quarters ending June 30, September 30, December 31 and March 31 of each year on the following February 1, May 1, August 1 and November 1 of each year respectively;

provided, however, that the maximum amount so to be paid for any one year by any such transportation company operating any railroad, or part of a railroad in this state, shall be \$5,000.00. The Commission shall keep a true record of all such amounts so paid to it, but said amount, when received by the commission, shall be promptly paid over to the treasurer, and shall be held in a separate fund by, and shall be paid out by the treasurer in payment of expenses incurred by the commission in the regulation of the transportation companies, upon warrants drawn as provided by law upon the treasurer and approved as required by law. Payment of the supervision and inspection fees provided for hereunder shall in all respects be governed by the provisions of subsections (b) and (c) of this section.

“(b) Supervision and inspection fees provided for in this article shall be in default after February 1, May 1, August 1 and November 1 of each year, if not paid prior to or on that date. In the event that the amount payable by any transportation company for any quarter cannot be ascertained on or before the dates herein prescribed for payment each year, such transportation company shall, in any event, pay the minimum supervision and inspection fee herein provided and in addition such part of any additional supervision and inspection fee as may be ascertainable on or before the date of default; and when any further or additional amount payable for such quarter can be ascertained, the same shall be paid within 30 days after it becomes possible to ascertain the same. Any transportation company failing in whole or in part to pay any supervision or inspection fee, or part thereof, due by it within any of the times herein prescribed for payment of the same, shall be in default and shall be liable to a penalty of not exceeding \$50.00 per day, to be recovered by suit of the state, for every day it thereafter remains in default, and such penalty may be recovered together with the supervision and inspection fee in default, in a single action.

“(c) Any transportation company may, at their own election, pay over the total fees due for the preceding fiscal year on November 1 of each year. Such payment to be governed by the provisions of subsections (b) and (d) of this section.

“(d) The state shall have a lien upon all the property in this state of any transportation company for the payment of the supervision and inspection fees provided for in this chapter to be paid and the penalties in this chapter provided for, which lien shall be superior to all other liens, except the lien for state, county and municipal taxes.”

**Section 2.** Section 37-4-23 of the Code of Alabama 1975 is hereby amended to read as follows:

“§37-4-23.

"Each utility, as defined in this chapter, doing business in this state and subject to the control and jurisdiction of the commission with respect to its rates and service regulations, shall pay quarterly to the commission beginning November 1, 1985 and on each quarter thereafter February 1, May 1, August 1, and November 1 of each year, a fee for the inspection and supervision of such business. Such inspection and supervision fees shall be paid by such utilities in addition to any and all property, franchise, license, intangible and other taxes, fees and charges now or hereafter provided by law. No similar inspection and supervision fees shall be levied or assessed by any county or municipality of the state, and no part of such inspection and supervision fees shall be allowed to any county or municipality of this state. Such inspection and supervision fee shall be measured by the amount of the gross receipts of each such utility for the fiscal year next preceding the dates fixed in this article for the payment of the same, except that in case of such utilities engaged in interstate business, the fees shall be measured by the gross receipts of such utilities from intrastate business only, for such preceding fiscal year, and not in any respect upon receipts derived wholly or in part from interstate business. Such fees shall be ascertained as follows: A fee of \$2.50 per \$1,000.00 for the first \$100,000.00 or less of such gross receipts; a fee of \$2.00 per \$1,000.00 for each additional \$1,000.00 of such gross receipts up to and including \$1,000,000.00 thereof; and a fee of \$1.50 per \$1,000.00 for each additional \$1,000.00 of such gross receipts over \$1,000,000.00 thereof; but in no case shall said fee be less than \$25.00, which shall be the minimum inspection and supervision fee to be paid by any utility. However, all utilities with gross intrastate receipts in excess of \$60,000,000.00 per calendar quarter will continue to submit the quarterly payment of fees, as due on the intrastate gross receipts of the fiscal year ended September 30, 1984, through August 1, 1985. On September 1, 1985 such utilities shall pay fees due based on gross receipts for the calendar quarter ended December 31, 1984. Beginning November 1, 1985 such companies shall pay over on a quarterly basis fees based on gross receipts for the calendar quarter ended March 31, 1985 and henceforth for the calendar quarters ending June 30, September 30, December 31 and March 31 of each year on the following February 1, May 1, August 1 and November 1 of each year respectively. The commission shall keep a true record of all such amounts so paid to it, but said amounts when received by the commission shall be promptly paid over to the treasurer and shall be held in a separate fund by him, and shall be paid out by the treasurer in payment of expenses incurred by the commission in the regulation of the utilities, upon warrants drawn by the comptroller on the treasurer, and approved by said commission or a majority thereof. Subject to the provision of the merit system, the commission shall have power to employ such assistants as may be found necessary to aid the commission in such

regulation, and to make payment for any necessary traveling or incidental expenses incurred in connection with such regulation, which shall be paid out of said fund as aforesaid, so far as it may be available. Payment of the supervision and inspection fees provided for under this section shall in all respects be governed by the provisions of section 37-4-24."

**Section 3.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-757

H. 626—Reps. Starkey, Goodwin,  
and Clark (D)

### AN ACT

To ratify and confirm the organization and operation of twelve regional planning and development commissions in state planning and development districts designated and established by executive order of the Governor pursuant to section 11-85-51, Code of Alabama 1975; and to authorize certain contracts for the purpose of receiving and disbursing governmental and private funds for certain federal, state and local programs.

WHEREAS, the Governor of Alabama by executive order has heretofore defined, designated and established twelve state planning and development districts throughout and within the state of Alabama in keeping with the provisions of section 11-85-51, Code of Alabama 1975; and

WHEREAS, under the provisions of sections 11-85-52 through 11-85-59, Code of Alabama 1975, regional planning and development commissions were authorized to be created by the various governmental units within respective districts; and

WHEREAS, it appears that in attempting to comply with such statutory provisions in the creation of regional planning and development commissions, the various governmental units participating failed to comply with the technical statutory requirements in the creation of their respective regional planning and development commissions within their respective districts, and created their respective commissions in various forms, by formation of nonprofit corporations, by various resolutions of local governments, and by agreements, and/or compacts between local governments; and

WHEREAS, such purported regional planning and development commissions have operated for a number of years as legally created commissions within their respective districts, and have entered into, performed, and administered and are now performing and administering numerous and varied contracts and have expended and are now expending thereunder federal, state, local governmental and/or private funds for various and sundry programs; now therefore,

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Those twelve bodies, organizations, or persons respectively acting and operating as regional planning and development

commissions within their respective districts on the effective date of this act and however created or established; by formation of nonprofit corporations, by various resolutions of local governments, or by agreements and/or compacts between local governments, or otherwise; are hereby ratified and confirmed as regional planning and development commissions under sections 11-85-50 through 11-85-59, Code of Alabama 1975.

**Section 2.** The respective regional planning and development commissions ratified and confirmed by section 1 of this act shall henceforth continue to act and operate as regional planning and development commissions within their respective districts, and any governmental units within a particular district desiring to become a member of, and have representation on a commission within the district in which the governmental unit is located, shall pass resolutions or ordinances as applicable to accomplish that purpose and they shall thereupon become members of the commission within their respective district and shall be granted the respective representation on the commission as is provided by section 11-85-53, Code of Alabama 1975, provided they agree by appropriate resolution or ordinance, as applicable, to contribute to the financing of the commission in keeping with a formula of financing on a population basis in the same proportion as current members as established by the commission.

**Section 3.** The regional planning and development commissions ratified and confirmed by this act as such commissions shall have such powers, rights, obligations and privileges as heretofore accorded to, and which might be hereinafter accorded to regional planning and development commissions under the laws of Alabama.

**Section 4.** Regional planning commissions, business corporations, nonprofit corporations, and local entities as defined in section 23-1-21.1, Code of Alabama 1975, or as might be hereafter defined by amendment of such section are authorized and empowered to enter into contracts, jointly, separately, and severally with each other and/or with the state of Alabama, the federal government, and/or with their respective departments and agencies, for the purpose of receiving and disbursing state, federal and/or local governmental and private funds for programs established or which might be established as a result of federal, state, and/or local legislation, and to establish on a state or local level, operate and administer any such programs under the contract terms, provided the contract performance, the operation and administration of programs thereunder are in keeping with any such legislation and regulations thereunder. Any such contracts entered into prior to the effective date of this act are deemed to have been executed with full power and authority.

**Section 5.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 6.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 7.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

Act No. 85-758

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H. 64—Reps. Starkey, Carter, Grouby, Butler, Adams, Clark (D), Bugg, Junkins, Ford, Newman, Lauderdale, Hettinger, Grayson, Gray, Richardson, Burke, Rains, Brooks, Box, Kvalheim, Gaston, Hooper, Reed, Turnham, Flowers, Preuitt, Venable, Hammett, Crow, McKee, Zoghby, Mikell, Penry, McMillan, Holmes, Black, Albright, Smith, Boles, Coleman, Bowling, Payne, Clark (J), McNair, McDowell, Melton, Pratt, Biddle, Goodwin, Turner, Hall, Holley, Mitchell, Marietta, Trammell, Beasley, Cosby, Onderdonk, and Tanner

### AN ACT

To amend Sections 31-6-2, 31-6-4, 31-6-5 and 31-6-6, Code of Alabama 1975, relating to educational benefits for certain children or wives or widows of certain deceased or disabled veterans or prisoners of war, so as to further provide therefor.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** Sections 31-6-2, 31-6-4, 31-6-5 and 31-6-6, Code of Alabama 1975, are hereby amended to read as follows:

“§31-6-2.



"For the purposes of this chapter, the following terms shall have the meanings ascribed to them by this section:

"(1) **ARMED FORCES.** Such term shall include the United States army, air force, navy, marine corps and coast guard, and such term shall also include the units of those branches of the services having women troops. It shall also include the army, navy, marine corps and coast guard nurse corps.

"(2) **TUITION AND FEES.** All fees known and classed as instructional fees.

"(3) **WIFE.** Such term shall mean spouse.

"(4) **HUSBAND.** Such term shall mean spouse.

"(5) **WIDOW.** Such term shall mean widow or widower."

#### §31-6-4.

Any child whose father or mother:

"(1) Was killed or died in line of duty or is listed as missing in action or is/was a prisoner of war or whose death or permanent total disabilities were service-connected while serving as a member of the armed forces; or

"(2) Died from a disability incurred from military service, as established by the state department of veterans affairs, after having been discharged under conditions other than dishonorable and after having served at least 90 days consecutively in the armed forces prior to and/or subsequent to the date on which such disability occurred, or who was honorably discharged by reason of wartime, service-connected disability after serving less than 90 days; or

"(3) Has been assigned 100 percent permanent or total disability rated by the United States veterans' administration, or was discharged or retired from the armed forces with a 20 percent or more disability and maintained that percentage (such person to be deemed to be a disabled veteran) may attend any Alabama state institution of higher learning, college or university for a period of four standard academic years of nine months each, not to exceed 36 months or the equivalent of 36 months if enrolled part-time, without paying any tuition, fees or books whatsoever for such college or university attendance, or any such child may take a prescribed course in any Alabama state trade school for the length of any prescribed course of study of his or her choosing, and if such course does not require the full 36 months, then training for the remainder of such 36 months' entitlement may be taken at a state-supported college or university only, without the payment of any tuition, fees or books whatsoever. Training under this section must be initiated prior to the child's thirtieth birthday,

and must be completed within eight years after is initiation, except for delays caused by military service during the training period, and in no case may training be received under this chapter beyond the thirty-eighth birthday of such child.

“§ 31-6-5.

“Any wife or widow whose husband, during their marriage:

“(1) Was killed or died in the line of duty or is listed as missing in action or is/was a prisoner of war while serving as a member of the armed forces;

“(2) Died from a disability incurred from military service; or

“(3) Is 100 percent permanently and totally disabled, whose permanent and total disabilities were service-connected; shall be entitled to training in any Alabama state-supported college or university for period of four standard academic years of nine months each, not to exceed 36 months or to training for the equivalent of 36 months if enrolled part-time or to training in a prescribed course in a state-supported trade school, and if such course does not require the full 36 months, then training for the remainder of such 36 months’ entitlement may be taken at a state-supported college or university only, without the payment of any tuition, fees or books, whatsoever. One change of program will be allowed without counseling. All training received under this section must be completed within eight years after the beginning date of the four-year course. This section shall not apply to the widow of any such deceased serviceman or veteran who has remarried prior to applying for and obtaining educational benefits under this section, and should any such widow of such deceased serviceman or veteran remarry during time she is in attendance upon any of the schools, colleges or universities mentioned in this section, then she shall pay tuition and fees for her course of study or attendance upon such school, college or university from the time of her remarriage. The benefits provided under this section shall be in addition to federal government benefits.”

“§ 31-6-6.

“(a) The wife and children of any veteran who is suffering from 20 to 90 percent service-connected disability brought about from service in the armed forces of the United States, or the widow and children of a deceased veteran who was suffering from 20 percent or more of service-connected disability at the time of his death, provided such disabilities as are mentioned herein are incurred from military service, as established by the state department of veterans affairs, shall be entitled to the following educational advantages and opportunities:

(1) The wife or widow, as the case may be, shall be entitled to up to 18 months of schooling or the equivalent of 18 months if

enrolled part-time, in any Alabama state-supported institution of higher learning, college or university, or to a prescribed course in any Alabama state-supported trade school without the payment of any tuition, fee or books. One change of program will be allowed without counseling. It is provided, however, that all training received at state institutions of higher learning or state trade schools under the provisions of this subdivision must be completed within a period of six years after the beginning date of such two-year course or such prescribed course.

“(2) Each child of such disabled veteran shall be entitled to four standard academic years, not to exceed nine months each attendance, or the equivalent of 36 months if enrolled part-time, in any Alabama state-supported institution of higher learning, college or university, or to a prescribed course at an Alabama state-supported trade school. If the course of training at the trade school does not require the full time to which such child is entitled hereunder, then the remaining entitlement may be taken in a state-supported college or university only, without payment of any tuition, fees or books. One change of program will be allowed without counseling. Training under this subdivision must be initiated prior to the child’s twenty-sixth birthday, and must be completed within eight years after its initiation, except for delays caused by military service during the training period, and in no case may training be received under this section beyond the thirty-fourth birthday of such child.

“(b) The benefits provided under this section shall be available in addition to federal government benefits. Any child, wife or widow who was denied full entitlement, 18 or 36 months, whichever the case may be, shall have the remainder of their entitlement reinstated under this chapter.”

**Section 2.** This Act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-759

H. 115—Rep. Campbell

## AN ACT

To establish the Alabama Endowment Trust Fund for Eminent Scholars; provides that the Alabama Commission on Higher Education shall administer the trust fund; provides for investment of appropriated funds and for the use of accrued interest; provides for matching of funds; provides for the creation of separate foundation trust

funds for each university; provides for the expending of the funds; and provides an appropriation.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** The Legislature recognizes that the following public universities in Alabama which grant baccalaureate degrees and are independently accredited by the Southern Association of Colleges and Schools—the University of Alabama in Huntsville, the University of Alabama in Birmingham, The University of Alabama, Auburn University, Auburn University at Montgomery, Jacksonville State University, Troy State University, Troy State University in Montgomery, the University of North Alabama, the University of South Alabama, Livingston University, the University of Montevallo, Alabama State University, and Alabama A & M University—would be greatly strengthened by the addition of distinguished scholars serving as resident faculty members.

It further recognizes that support from sources other than state appropriations, student fees, federal funds, research grants, and any interest earned thereon will help strengthen the commitment of citizens and organizations in promoting excellence in these state universities. It is therefore the intent of the Legislature to establish a trust fund to provide the opportunity to each of these institutions to receive grants from such trust fund to create endowments for selected eminent scholars to occupy chairs within the university's faculty.

**Section 2.** There is hereby established the Alabama Trust Fund for Eminent Scholars to provide challenge grants to the public state universities in Alabama named in Section 1. The Trust Fund shall be administered by the Alabama Commission on Higher Education in accordance with the guidelines as set forth in this Act. The Legislature shall designate funds to be transferred to the Trust Fund from the Special Educational Trust Fund. All appropriated funds deposited into the Trust Fund shall be invested by the Alabama Commission on Higher Education pursuant to the provisions of Section 16-13-2, Code of Alabama 1975. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for challenge grants.

**Section 3.** The associated foundations that serve the respective universities shall solicit and receive contributions, from sources other than state appropriations, student fees, federal funds, research grants and any interest earned thereon, to provide funds to match the Alabama Trust Fund for Eminent Scholars challenge grants for the establishment of endowments for chairs within the universities. The amount appropriated to the Alabama Trust Fund for Eminent Scholars shall be allocated by the Alabama Commission on Higher Education to each university on the basis of one \$400,000 grant for each

\$600,000 raised by the respective university's foundation, by contributions and accrued interest thereon, from sources other than the state appropriations, student fees, federal funds, research grants, and any interest earned thereon.

**Section 4.** Such challenge grants shall be matched by the university's foundation on a basis of three dollars of contributions and accrued interest thereon, received by said university's foundation for every two dollars in challenge grant money from the Alabama Trust Fund for Eminent Scholars. Matching funds shall come from contributions, and accrued interest thereon, received by such university's foundation after October 1, 1985 which are for the Eminent Scholars Fund or from unpledged contributions, and accrued interest thereon, received by such university's foundation. Each university's foundation shall establish an Eminent Scholars Fund Account for each grant, which shall serve as the depository for funds received pursuant to this Act. State matching funds in the amount of \$400,000 shall be transferred by the Alabama Commission on Higher Education to a university's foundation within 90 days of notification, by such university's foundation to the Alabama Commission on Higher Education, that such university's foundation has received and deposited \$600,000 in its Eminent Scholars Trust Fund Account. But no matching funds shall be transferred by the Alabama Commission on Higher Education until the Alabama Commission on Higher Education has verification, in the form of a current bank statement, from the respective university's foundation that such university's foundation has a total of at least \$600,000 in its Eminent Scholars Fund.

**Section 5.** Each public state university named in Section 1 is entitled to match an equal share of the total monies appropriated to the Alabama Eminent Scholars Trust Fund prior to September 30, 1987 or for two years after any subsequent appropriation made by the Legislature. Any funds hereby allocated to the Alabama Eminent Scholars Trust Fund, which remain unmatched by contributions, as outlined above, on September 30, 1987, shall be available for matching by any university foundation on the following basis: On September 30, 1987, any university foundation which has previously received a challenge grant may apply for any remaining funds and the Alabama Commission on Higher Education shall award matching challenge grants in equal amounts to the applying foundations upon certification of the availability of matching funds. The matching ratio for these grants shall be the same as outlined in Section 4 of this Act. These funds and its matching amount may be used by a university foundation to increase its existing Eminent Scholars Fund or to establish an additoinal Eminent Scholars Fund.

**Section 6.** The foundation serving a university shall have the responsibility for the maintenance and investment of its fund and

for the administration of the program at that university. The governing board of each foundation shall be responsible for soliciting and receiving gifts to be used as matching funds to be deposited and matched with challenge grants from the Alabama Trust Fund for Eminent Scholars for the establishment of the endowments for the specified university. Once an endowment is established and operating, there may be further challenge grants to be matched for the establishment of more chairs. The total amount of challenge grants received by a university foundation shall not exceed its equal share of the amount appropriated to the Alabama Trust Fund for Eminent Scholars plus its equal share of any funds unmatched by other university foundations by September 30, 1987. Through the 1987-88 fiscal year, the Alabama Commission on Higher Education shall include in its annual report to the Legislature information concerning distribution of the appropriation, and accrued interest thereon, of the Alabama Trust Fund for Eminent Scholars.

**Section 7.** When the sum of the challenge grant and matching funds reaches \$1,000,000, the foundation and the president of the university may recommend, to the Board of Trustees of the university for its approval, the establishment of an endowed chair. The Board of Trustees must approve the recommendation in order for the chair to be established. The chair, which is then the property of the university, may be named in honor of a donor, benefactor, or honoree of the university, at the option of the university.

**Section 8.** (a) The president shall be responsible for the final approval of criteria to be used in the selection process for the individual to fill the endowed chair.

(b) The president of the university shall nominate individuals for consideration as candidates, or individuals may apply to the foundation for consideration as candidates. Candidates for the chairs may or may not be currently employed as faculty members of the granting university; however, a candidate not so employed must become employed as a faculty member by the granting university upon acceptance of the chair.

(c) The president of the university may establish a committee to process each application or nomination. Final selection of an individual shall follow the regular procedures established by the university.

(d) Upon the approval of the president, proceeds of the endowment may be used as salaries or a supplement for salaries for the holder of the chair and for those individuals directly associated with the holder of the chair's scholarly work and for other expenses directly related to the chair's scholarly work.

**Section 9.** The respective university foundation receiving a challenge grant from the Alabama Trust Fund for Eminent Scholars shall enter into a written agreement with its university to provide from the earnings from its Eminent Scholars Trust Fund an amount not to exceed said earnings which the university may use as specified in this Act in Section 8(d).

**Section 10.** The provisions of this Act shall apply to any future appropriations made by the Legislature for the Eminent Scholars Program.

**Section 11.** The provisions of this Act are severable. If any part of the Act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 12.** All laws or parts of laws which conflict with this Act are hereby repealed.

**Section 13.** This Act shall become effective on October 1, 1985.

Approved May 29, 1985

Time: 8:00 P.M.

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Act No. 85-760

H. 854—Reps. Nicholson, and Brakefield

### AN ACT

To create and establish the Alabama Mining Academy to be located at Walker State Technical College in Walker County, Alabama, and to provide assistance to the State of Alabama mining industry through education, training and research.

*Be It Enacted by the Legislature of Alabama:*

**Section 1.** There is hereby created and established the Alabama Mining Academy which shall be located at Walker State Technical College in Walker County, Alabama. The Alabama Mining Academy shall be maintained as an agency of Walker State Technical College. The Academy shall be the agency that assists in the mine safety and health training of Alabama miners. The purpose and function of this Academy shall be to cooperate with and provide assistance to the mining industry of the state in developing effective mine health and safety programs and to improve and expand research and development and training programs aimed at developing a safer, more productive coal industry for the state of Alabama.

**Section 2.** (a) The Academy shall have the authority to enter into cooperative educational and training agreements with educational institutions, state governments, labor organizations, mine operator and related industries. Such training shall be conducted by the

Academy in accordance with curriculum needs and assignment of instructional personnel established by the user.

(b) The Alabama Mining Academy shall use the facilities and personnel of Walker State Technical College. The president of Walker State Technical College may appoint or assign to the Academy such personnel as he deems necessary for the performance of the duties and functions of the Academy.

(c) The president of Walker State Technical College is authorized to enter into contractual or other agreements for the performance of such safety related research.

(d) Walker State Technical College shall be authorized to procure mining equipment and other articles that said institution deems necessary for the preservation of Alabama's Mining History.

**Section 3.** The Alabama Mining Academy shall expand programs for the education and training of operations and agents thereof and miners in: (1) the recognition, avoidance, and prevention of accidents, unsafe or unhealthful working conditions in coal or other mines; and (2) in the use of flame safety lamps, permissible methane detectors, and other means approved by the Mine Safety and Health Administration (MSHA) for detecting methane and other explosive gases accurately.

**Section 4.** The Alabama Mining Academy shall, to the greatest extent possible, provide technical assistance to operators in meeting the requirements of the Federal Mine Safety and Health Act of 1977, the Alabama coal mining laws in further improving the health and safety conditions and practices in coal and other mines.

**Section 5.** The Alabama Mining Academy shall conduct such studies, research, experiments, and demonstrations as may be appropriate:

(1) To improve working conditions and practices in coal or other mines, and to prevent accidents and occupational diseases originating in the coal or other mining industry;

(2) To prepare and publish from time to time, reports on new, innovative approaches to safer more productive mining techniques;

(3) To develop improved means or methods of training maintenance personnel;

(4) To develop and continually upgrade programs for the safety awareness training of Alabama miners;

(5) To develop and maintain state of art training for electrical personnel;



(6) To maintain and train two (2) fully equipped well-trained mine rescue teams;

(7) To develop techniques for the prevention and control of roof falls; and

(8) To develop new or improved means and methods of mine ventilation.

**Section 6.** The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

**Section 7.** All laws or parts of laws which conflict with this act are hereby repealed.

**Section 8.** This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 29, 1985

Time: 8:00 P.M.

August 20, 1984

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

**ORDER**

IT IS ORDERED that Rule 35(A), Alabama Rules of Appellate Procedure, be amended, effective October 1, 1984, to read as follows:

“Rule 35A  
“DOCKET FEES

“The docket fee as hereinafter prescribed shall be paid to the clerk of the appropriate appellate court, unless otherwise excepted, as follows:

“(1) Appeals in civil cases, review by certiorari in workmen’s compensation cases as provided by Rules 3 and 12(a), and review by certiorari of the decisions and judgments of trial courts in cases where review by appeal is not provided for and from decisions of boards and agencies where review by petition in the appropriate appellate court is provided by law, the docket fee to be paid at the time of the filing of the petition or notice of appeal—\$100.00. Provided, however, for an appeal taken following permission given pursuant to Rule 5, the docket fee shall be \$50.00.

“(2) Petition or application for mandamus and prohibition and other extraordinary writs as provided in Rule 21—\$50.00.

“(3) Petitions for certiorari to the Court of Civil Appeals as provided in Rule 39—\$50.00.

“(4) Petition for permission to appeal pursuant to Rule 5—\$50.00. If permission to appeal is granted, there shall be an additional \$50.00 docket fee to comply with (1) above.

“Appeals may be docketed without payment of the docket fee where a motion for leave to proceed in forma pauperis has been granted pursuant to the provisions of Rule 24(a).

“Where no provision has been made for a party to proceed in forma pauperis on certiorari or on petition for mandamus or prohibition or other extraordinary writ, a motion and affidavit in support of motion for leave to proceed in forma pauperis on the petition shall be filed with the answers as provided in Form 15.

“The docket fees herein prescribed shall be in lieu of all other court costs in the particular proceeding before the appellate court unless otherwise set by the court, and may be taxed as costs as provided by Rule 35.

“(Add eff. Dec. 1, 1978.)

“(Amended eff. Sept. 13, 1983; October 1, 1984.)

**“COMMENT**

“The amendment of September 13, 1983, increased the docket fee in section (1) from \$50.00 to conform with Act 83-744, § 18(b).

“COURT COMMENT TO AMENDMENT OF OCTOBER 1, 1984

“The amendment of October 1, 1984, increased the amount of the docket fees in sections (2) and (3)—for petitions for mandamus, prohibition, or other extraordinary writs, and for petitions for certiorari to the court of civil appeals—from \$25.00 to \$50.00. That amendment also added section (4) to require a \$50.00 docket fee for the filing of a petition for permission to appeal; to correspond with this new fee, the proviso was added to section (1). The effect is to require, in the case of a Rule 5 petition for permission to appeal, that half the regular docket fee be paid upon the filing of the petition, and that the other half be paid if the petition is granted.”

Torbert, C. J., and Maddox, Almon, Shores, Embry, Beatty, and Adams, JJ., concur.

Faulkner and Jones, JJ., not sitting.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 30th day of Aug. 1984.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

December 17, 1984

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

**ORDER**

WHEREAS, the Standing Committee on Alabama Rules of Civil Procedure, on April 4, 1983, recommended to the Court the adoption of an amendment to Rule 33, Alabama Rules of Civil Procedure (“Interrogatories to Parties”), which proposed amendment was published at 431 So. 2d Advance Sheet CXXVII (July 21, 1983) for the purpose of giving notice to interested parties, but which proposal was not adopted by the Court; and

WHEREAS, the Committee then recommended that a different amendment of Rule 33, Alabama Rules of Civil Procedure, be adopted by the Court, which proposed amendment was published at 453 So. 2d Advance Sheet CXXVI for the purpose of giving notice to interested parties; and

WHEREAS, the proposed amendment and comments made by interested parties have been duly examined and considered by the Court.

IT IS CONSIDERED AND ORDERED that Rule 33, Alabama Rules of Civil Procedure be amended as follows:

(a) **Availability; Procedures for Use.** Any party may serve upon any other party written interrogatories in accordance with subdivision (d) of this rule to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may, without

leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

Each interrogatory shall be answered separately and fully in writing under oath in accordance with subdivision (d) of this rule, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, within 30 days after the service of the interrogatories, except that a defendant may serve answers or objections within 45 days after service of the summons and complaint upon that defendant. The court may allow a shorter or longer time. The party submitting the interrogatories may move for an order under Rule 37(a) with respect to any objection to or other failure to answer an interrogatory.

(b) [Unchanged.]

(c) [Unchanged.]

(d) **Form of Interrogatories and Answers.** A party propounding interrogatories shall provide sufficient space for a response to each interrogatory. The party responding to interrogatories may either (1) make his answers on the spaces provided or (2) retype or otherwise reproduce each interrogatory and state his answer after each interrogatory, or (3) disregard the space provided and prepare answers separately from the interrogatories. If the responding party elects to answer on the space provided and the space is inadequate, additional pages may be used with a reference in the space to the additional pages.

(dc) [Unchanged.]

#### **Committee Comments [Unchanged.]**

#### **Committee Comments to Amendment Effective December 17, 1984.**

The December 17, 1984, amendment added the language "in accordance with subdivision (d) of this rule" in subdivision (a) and added subdivision (d). If interrogatories are the subject of separate responses, the questions will be found in one portion of the file and the answers at a later portion. The change in the form of interrogatories effected by the amendment was made to encourage the elimination of the tedious process of referring back and forth in a court file. This amendment, which requires that the party serving the interrogatories leave spaces adequate for answer, should facilitate the use of interrogatories at trial and will also be an aid to the court in ruling on objections to interrogatories if the responding party elects to respond in the space provided or elects to reproduce the interrogatories and respond after each duplicated interrogatory.

Note that the rule does not require that a responding party make his answers on spaces made available by the propounding party. In

addition to the option of reproducing the interrogatories and creating his own spaces for a response, the responding party retains the option of serving answers in the format that was utilized under prior practice where no spaces were provided with the interrogatories.

The rule provides, in the event that the space provided for an answer is inadequate, that additional response can be placed on a separate page with a reference in the space provided to the separate page where the answer is continued. When available space has been used and additional pages are necessary, it is satisfactory to reproduce the page upon which the overflow occurs, strike through interrogatories not yet answered, and follow the page with insertion of the additional pages necessary for completion of the answer. Thereafter, responses upon the space made available can resume on another reproduction of the same page with previously answered interrogatories having been struck through.

The party propounding the interrogatory will continue to have the obligation to file the original with the court and serve copies on parties pursuant to Rule 5(d). The party responding to the interrogatory will likewise have the obligation to file the original with the court and serve all other parties pursuant to Rule 5(d).

IT IS FURTHER ORDERED that this amendment shall be effective immediately.

Torbert, C. J., and Maddox, Faulkner, Jones, Almon, Shores, Embry, Beatty, and Adams, J J., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing, is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 3rd day of Jan. 1985.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

January 7, 1985

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

**ORDER**

WHEREAS, the Alabama Rules of Judicial Administration were adopted by the Supreme Court of Alabama on October 14, 1976; and

WHEREAS, the Supreme Court has given consideration to the amendment of the Alabama Uniform Traffic Ticket and Complaint contained in Rule 19 of the Alabama Rules of Judicial Administration.

IT IS, THEREFORE, ORDERED that the revised Traffic Ticket and Complaint, Series J, attached hereto as Exhibit A, be, and the same is hereby, adopted.

IT IS FURTHER ORDERED that the said Alabama Uniform Traffic Ticket and Complaint, Series J., shall become effective as of January 1, 1985.

Torbert C.J., and Maddox, Faulkner, Jones, Almon, Shores, Embry, Beatty, and Adams, JJ., concur.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 31st day of Jan. 1985.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

SPEEDISER® MOORE BUSINESS FORMS, INC.

FORM UTC 1  
REV. 1/85ALABAMA UNIFORM TRAFFIC TICKET  
AND COMPLAINT

CASE NUMBER

ALABAMA, COUNTY OF		TICKET NUMBER J	
The undersigned, being duly sworn, depose and say that the motor vehicle owner in before and does certify that the person herein named committed the offense hereinafter set forth to my knowledge in that state about: MONTH DAY YEAR AT TIME <input type="checkbox"/> A.M. <input type="checkbox"/> P.M.			
COMPLAINT AND AFFIDAVIT COURT RECORD COPY			
FIRST NAME		MIDDLE NAME	LAST
ADDRESS STREET			
CITY		STATE	ZIP CODE
STATE		DRIVER'S LICENSE NUMBER	SEX <input type="checkbox"/> M <input type="checkbox"/> F
BIRTH DATE MO DAY YR	VEHICLE TAG NUMBER		STATE YEAR
VEHICLE DESCRIPTION (YEAR MAKE TYPE)		NAME / ADDRESS <input type="checkbox"/> OWNER <input type="checkbox"/> EMPLOYER	
SOCIAL SECURITY NUMBER			
Did unlawfully operate a motor vehicle <input type="checkbox"/> within the city limits or police jurisdiction of _____ or <input type="checkbox"/> in _____ county upon the _____ following public street, road or highway, at or near (Describe location below):			
		MAIL POST NUMBER	STREET NAME ADDRESS
		ROUTE	NUMBER
in violation of _____ <input type="checkbox"/> State Code (or) <input type="checkbox"/> Municipal Ordinance more particularly described in DESCRIPTION OF OFFENSE section below (See circle of description of offense)			
Sworn to and acknowledged before me this date MONTH DAY YEAR		OFFICER'S SIGNATURE	
SIGNATURE AND TITLE		OFFICER ID	AGENCY OR

COURT APPEARANCE INFORMATION			
in the <input type="checkbox"/> MUNICIPAL <input type="checkbox"/> DISTRICT		Court of	
TRIAL DATE MONTH DAY YEAR	TIME <input type="checkbox"/> AM <input type="checkbox"/> PM	COURT ADDRESS	
<input type="checkbox"/> Driver's license posted in lieu of bond		<input type="checkbox"/> Released on own recognizance <input type="checkbox"/> Court appearance required <input type="checkbox"/> Bail - required <input type="checkbox"/> Bail not required	
I PROMISE TO APPEAR IN COURT AT SAID TIME AND PLACE OR OTHERWISE COMPLY WITH THE PROVISIONS OF THIS COMPLAINT.			
DEFENDANT'S SIGNATURE		PHONE ( )	

DESCRIPTION OF OFFENSE CIRCLE APPROPRIATE SQUARE	
<input type="checkbox"/> 1 SPEEDING: Did operate a motor vehicle at _____ miles per hour in a _____ MPH zone. <input type="checkbox"/> 2 RECKLESS DRIVING <input type="checkbox"/> 3 DRIVING WITHOUT FIRST OBTAINING A DRIVER'S LICENSE DRIVING WHILE UNDER THE INFLUENCE OF <input type="checkbox"/> 4 ALCOHOL TEST TYPE _____ BAC _____ <input type="checkbox"/> 5 CONTROLLED SUBSTANCES <input type="checkbox"/> 6 FAILING TO YIELD RIGHT OF WAY <input type="checkbox"/> 7 DRIVING WHILE LICENSE OR PRIVILEGE REVOKED <input type="checkbox"/> 8 DRIVING WHILE LICENSE OR PRIVILEGE SUSPENDED <input type="checkbox"/> 9 DRIVING WHILE LICENSE OR PRIVILEGE CANCELLED	<input type="checkbox"/> 10 RUNNING RED LIGHT <input type="checkbox"/> 11 DRIVING ON WRONG SIDE OF ROAD <input type="checkbox"/> 12 FAILING TO STOP AT STOP SIGN <input type="checkbox"/> 13 IMPROPER (a) Manner (b) Lights (c) Tires (d) Mirror (e) Brakes <input type="checkbox"/> 14 PASSING IN PROHIBITED ZONE <input type="checkbox"/> 15 MAKING IMPROPER TURN <input type="checkbox"/> 16 OVERWEIGHT TRUCK
CHECK APPROPRIATE BLOCKS: <input type="checkbox"/> No accident <input type="checkbox"/> Accident causing property damage <input type="checkbox"/> Accident causing injury	<input type="checkbox"/> OTHER VIOLATIONS/SPECIFY _____ (And Officer's Remarks: _____)

## INSTRUCTIONS

TO OFFICER:

## PRESS FIRMLY.

ASK IF MOTORIST'S ADDRESS IS CORRECT ON DRIVER'S LICENSE

1279

# **COURT RECORD** **COURT ACTION AND DISPOSITION**

COURT CASE NO.

IN THE <input type="checkbox"/> MUNICIPAL <input type="checkbox"/> DISTRICT COURT OF _____		TICKET NUMBER <b>J</b>	
DEFENDANT'S NAME _____			
BAIL FIXED AT \$ _____	CASH BAIL DEPOSITED \$ _____	<input type="checkbox"/> DRIVER'S LICENSE OR PLATE IN CUSTODY OF _____	<input type="checkbox"/> RELEASED ON OWN RECOGNIZANCE
CONTINUED TO _____		REARRESTED _____	
DATE WARRANT ISSUED _____		DATE SERVED _____	
COURT DATE _____		COURT REPORT AL               J	
ATTORNEY FOR DEFENDANT _____			
Plea of Defendant (CIRCLE ONE) <input type="checkbox"/> Guilty as charged <input checked="" type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty			
Finding of the Court (CIRCLE ONE) <input type="checkbox"/> Guilty as charged <input checked="" type="checkbox"/> Not Guilty <input type="checkbox"/> RESPONDED TO FTA NOTICE			

Orders of the Court \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

<input type="checkbox"/> Fine \$ _____	+ Court Costs \$ _____	= Total \$ _____
<input checked="" type="checkbox"/> Jailed Days in _____		
Traffic School <input type="checkbox"/> DUI <input checked="" type="checkbox"/> DDC <input checked="" type="checkbox"/> Location _____		
<input checked="" type="checkbox"/> License Suspended for _____	DAYS _____	MONTHS _____ YEARS _____
DISPOSITION DATE ► _____	MONTH _____ DAY _____ YEAR _____	YEAR OF COURT BALANCE _____
<input type="checkbox"/> CASE APPEALED	APPEAL DATE _____	APPEAL BOND NO. _____

## **SUMMARY OF COURT COSTS AND FINE**

TYPE OF ARREST <input type="checkbox"/> STATE <input type="checkbox"/> COUNTY <input type="checkbox"/> MUNICIPAL	DISTRICT COURT	MUNICIPAL COURT
1. DISTRICT COURT CONSOLIDATED FEE & FEE		
2. MUNICIPAL COURT COST BY ORDINANCE (MAXIMUM \$100)		
3. MUNICIPAL COURT STATUTORY COSTS		
4. WITNESS SUBPOENA \$4 OF EACH IN DISTRICT COURT		
5. LAW LIBRARY FEE		
6. OTHER		
7. OTHER		
TOTAL COSTS	\$ _____	\$ _____
8. FINE	\$ _____	\$ _____
TOTAL COSTS & FINE	\$ _____	\$ _____

## **RECORD OF CASH RECEIPTS**

RECEIVED FROM	DATE RECEIVED	RECEIPT NUMBER	AMOUNT

LICENSE ATTACHED ☐ YES ☐ NO

DPS RECEIVED LICENSE ☐ YES ☐ NO



# NOTICE

1. YOU MUST APPEAR IN COURT ON THE TRIAL DATE SHOWN ON THE FRONT OF THIS TICKET IF YOU ARE CHARGED WITH AN OFFENSE NOT LISTED BELOW OR IF YOU HAVE NOT SETTLED THIS CASE PRIOR TO THAT TIME
2. IF YOU HAVE NOT SETTLED THIS CASE PRIOR TO THE TRIAL DATE AND YOU DO NOT APPEAR IN COURT ON SUCH DATE, A WARRANT WILL BE ISSUED FOR YOUR ARREST AND THE DEPARTMENT OF PUBLIC SAFETY WILL BE NOTIFIED TO SUSPEND YOUR DRIVER'S LICENSE
3. YOU DO NOT HAVE TO APPEAR IN COURT FOR THE FOLLOWING OFFENSES UNLESS YOU HAVE BEEN CONVICTED OF TWO OR MORE TRAFFIC VIOLATIONS DURING THE PRECEDING 12 MONTHS (PARKING TICKETS EXCLUDED):

Driving on wrong side of road	Improper Brakes	Following too closely
Failing to	Lights	No helmet (motorcycle rider)
Dim lights	Muffler	Running red light
Stop at railroad crossing	Passing	Running stop sign
Yield right of way	Signal	Speeding (unaggravated)
	Turn	Stopping on highway

4. IF YOU ARE CHARGED WITH ONE OF THE ABOVE OFFENSES AND HAVE NOT BEEN CONVICTED OF TWO OR MORE TRAFFIC VIOLATIONS DURING THE PRECEDING 12 MONTHS, THE COURT CLERK OR MAGISTRATE MAY ACCEPT YOUR PLEA OF GUILTY, FINE AND COURT COSTS.
5. YOU MAY ENTER A PLEA OF GUILTY EITHER IN PERSON OR BY MAIL WITHIN SEVEN (7) DAYS FROM DATE OF CITATION OR, AT THE DISCRETION OF THE COURT CLERK OR MAGISTRATE, NOT LATER THAN 24 HOURS BEFORE THE COURT DATE SHOWN ON THE TICKET.
6. IF YOU WISH TO PLEAD GUILTY, YOU MUST SIGN THE PLEA OF GUILTY, WAIVER AND OATH SET FORTH BELOW AND PRESENT THIS COPY OF THE TICKET WITH YOUR COURT COSTS AND FINE, EITHER IN PERSON OR BY MAIL, TO THE COURT CLERK OR MAGISTRATE.
7. YOU MUST CONTACT THE COURT FOR THE AMOUNT OF THE FINE AND COURT COSTS. PAYMENT MUST BE BY CERTIFIED CHECK OR MONEY ORDER IF MADE BY MAIL.

## B. TICKETS ISSUED BY MUNICIPAL POLICE

FOR MINOR EQUIPMENT VIOLATIONS, LOCAL ORDINANCES MAY ALLOW YOU TO HAVE THE EQUIPMENT REPAIRED AND INSPECTED WITHIN 72 HOURS, EXCLUDING SUNDAYS AND LEGAL HOLIDAYS, AND PRESENT YOUR CITATION TO ANY LAW ENFORCEMENT OFFICER THIS OFFICER, AFTER INSPECTION OF YOUR VEHICLE, MAY, BY SIGNING BELOW, RECOMMEND THAT THE CHARGE BE DISMISSED. YOU MUST THEN DELIVER OR FORWARD THE CITATION TO THE COURT CLERK AT THE ADDRESS ON THE FRONT OF THIS TICKET.

DEFECTIVE EQUIPMENT REPAIRED (OFFICER'S RECOMMENDATION TO DISMISS CHARGE)	
EQUIPMENT INSPECTED	
INSPECTED BY (OFFICER'S NAME PRINTED):	OFFICER'S SIGNATURE
OFFICER ID	AGENCY OR: AL
DATE OF INSPECTION	TIME   :     <input type="checkbox"/> AM <input type="checkbox"/> PM

## PLEA OF GUILTY, WAIVER AND OATH

I, THE UNDERSIGNED, DO HEREBY ENTER MY APPEARANCE ON THE COMPLAINT OF THE OFFENSE CHARGED ON THE REVERSE SIDE OF THIS CITATION. I UNDERSTAND THAT I HAVE RIGHTS TO A TRIAL AND TO AN ATTORNEY AND VOLUNTARILY AND KNOWINGLY WAIVE SUCH RIGHTS. MY PLEA OF GUILTY, AS EVIDENCED BY SIGNATURE BELOW, IS VOLUNTARILY AND KNOWINGLY MADE AND I UNDERSTAND THAT IT WILL HAVE THE SAME FORCE AND EFFECT AS A JUDGMENT OF COURT. I ALSO UNDERSTAND THAT THIS RECORD WILL BE SENT TO THE DRIVER LICENSE DIVISION OF THE ALABAMA DEPARTMENT OF PUBLIC SAFETY (OR OF THE STATE WHERE I RECEIVED MY LICENSE TO DRIVE). I DO HEREBY PLEAD GUILTY TO SAID OFFENSE AS CHARGED AND WAIVE MY RIGHTS TO REPRESENTATION BY ATTORNEY, TO A HEARING BY COURT OR JURY, AND TO ALL APPEALS. I FURTHER SWEAR OR AFFIRM, UNDER PENALTY OF LAW, THAT I HAVE NOT BEEN CONVICTED OF TWO OR MORE TRAFFIC VIOLATIONS DURING THE PRECEDING TWELVE MONTHS.

OFFENSE	DEFENDANT'S SIGNATURE		
	FINE \$	COURT COSTS \$	TOTAL DUE \$
DEFENDANT'S ADDRESS			
DRIVER'S LICENSE NUMBER	RECEIPT NUMBER	DATE PAID	

ALABAMA UNIFORM TRAFFIC TICKET AND COMPLAINT

INSTRUCTIONS TO OFFICERS

PRINT EVERYTHING BUT SIGNATURES

USE BALL POINT PEN AND PRESS HARD

1. This Uniform Traffic Ticket and Complaint (UTC) MAY NOT be used as a parking ticket.
2. Use a separate UTC for each violation.
3. Complete and sign the UTC, have the motorist sign his promise to appear in court, and give him the defendant's copy.
4. Advise the motorist to follow the instructions on the back of the UTC. Inform him of the consequences of failing to appear in court.
5. All copies of a voided ticket must be returned to the local issuing officer.
6. This ticket, including the statement of charges, has been approved by the Supreme Court of Alabama.

STATE CODES

AL Alabama	LA Louisiana	OR Oregon
AK Alaska	ME Maine	PA Pennsylvania
AZ Arizona	MD Maryland	RI Rhode Island
AR Arkansas	MA Massachusetts	SC South Carolina
CA California	MI Michigan	SD South Dakota
CO Colorado	MN Minnesota	TN Tennessee
CT Connecticut	MS Mississippi	TX Texas
DE Delaware	MO Missouri	UT Utah
DC District of Columbia	MT Montana	VT Vermont
FL Florida	NE Nebraska	VA Virginia
GA Georgia	NV Nevada	WA Washington
HI Hawaii	NH New Hampshire	WV West Virginia
ID Idaho	NJ New Jersey	WI Wisconsin
IL Illinois	NM New Mexico	WY Wyoming
IN Indiana	NY New York	AS American Samoa
IA Iowa	NC North Carolina	CZ Panama Canal Zone
KS Kansas	ND North Dakota	GU Guam
KY Kentucky	OH Ohio	PR Puerto Rico
	OK Oklahoma	VI Virgin Islands

SOBRIETY TEST

1. Blood
2. Breath
3. Urine
4. Unable to Administer
5. Refused Test
6. No Test

ALABAMA UNIFORM TRAFFIC TICKET & COMPLAINT

BOOK

J

Beginning Ticket J

Ending Ticket J

Date Issued \_\_\_\_\_

Issuing Officer \_\_\_\_\_

Received By: \_\_\_\_\_ Name \_\_\_\_\_ ID No. \_\_\_\_\_

AGENCY COPY

3569-1015-1222-1203A  
FRONT OF FLYLEAF  
12/17/54 Lee

February 4, 1985

THE STATE OF ALABAMA—JUDICIAL DEPARTMENT  
IN THE SUPREME COURT OF ALABAMA

IT IS ORDERED that Rule 8(d)(1), Alabama Rules of Appellate Procedure, be revised, effective February 4, 1985, to read as follows:

“(d) Stays in criminal cases.

“(1) DEATH. When pronouncing a sentence of death, the trial court shall not set an execution date, but it may make such orders concerning the transfer of the inmate to the prison system as are necessary and proper. The supreme court shall at the appropriate time enter an order fixing a date of execution, not less than 30 days from the date of the order, and it may make other appropriate orders upon disposition of the appeal or other review. The supreme court order fixing the execution date shall constitute the execution warrant.

“Committee Comments to Amendment to Rule 8(d)(1),  
Effective February 4, 1985.

“Subdivision (d)(1) supersedes **Code of Alabama** 1975, § 12-22-243; § 15-18-80; that clause in § 15-18-82(a) reading ‘not less than 30 nor more than 100 days from the date of sentence, as the court may adjudge,’; the second and third sentences of § 15-18-84(a); and the second and third sentences of § 15-18-84(b). It is based on the recognition that appeal is automatic in death penalty cases, *see* § 12-22-150, § 13A-5-55, and Rule 39(c), A.R.A.P., and that the supreme court is in the best position to set an execution date and enter any necessary stays. In the limited circumstances described in § 15-16-23, the trial court has the authority to stay and reset the execution date, and in such a case the trial court’s order resetting the date would constitute the execution warrant.”

Torbert, C. J., and Maddox, Jones, Almon, Shores, Embry, and Beatty, JJ., concur.

Faulkner and Adams, JJ., not sitting.

I, Robert G. Esdale, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 5th day of Feb. 1985.

ROBERT G. ESDALE  
Clerk, Supreme Court of Alabama

DEPARTMENTAL REGULATION NO. 73  
SUBJECT: ALABAMA PROCEDURE FOR PERMITTING  
SAME MINIMUM NONFORFEITURE STANDARDS  
FOR MEN AND WOMEN  
INSURED UNDER 1980 CSO AND 1980  
CET MORTALITY TABLES

Effective November 15, 1984

**Table of Contents**

Section 1	Authority
Section 2	Purpose
Section 3	Definitions
Section 4	Rule
Section 5	Unfair Discrimination
Section 6	Separability
Section 7	Effective Date

**Section 1. Authority**

This Regulation is promulgated by the Commissioner of Insurance pursuant to Section 27-2-17, et al. **Code of Alabama** 1975.

**Section 2. Purpose**

The purpose of the Regulation is to permit individual life insurance policies to provide the same cash surrender values and paid-up nonforfeiture benefits to both men and women. No change in minimum valuation standards is implied by this regulation.

**Section 3. Definition**

A. As used in this Regulation, "1980 CSO Table, with or without Ten-Year Select Mortality Factors" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 NAIC Amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Standard Ordinary Mortality Table, with or without Ten-Year Select Mortality Factors.

B. As used in this Regulation, "1980 CSO Table (M), with or without Ten-Year Select Mortality Factors" means that mortality table consisting of the rates of mortality for male lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

C. As used in this Regulation, "1980 CSO Table (F), with or without Ten-Year Select Mortality Factors" means that mortality table consisting of the rates of mortality for female lives from the 1980 CSO Table, with or without Ten-Year Select Mortality Factors.

D. As used in this Regulation, "1980 CET Table" means that mortality table consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance,

incorporated in the 1980 NAIC Amendments to the Model Standard Valuation Law and Standard Nonforfeiture Law for Life Insurance, and referred to in those models as the Commissioners 1980 Extended Term Insurance Table.

E. As used in this Regulation, "1980 CET Table (M)" means that mortality table consisting of the rates for mortality for male lives from the 1980 CET Table.

F. As used in this Regulation, "1980 CET Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 1980 CET Table.

#### **Section 4. Rule**

For any policy of insurance on the life of either a male or female insured delivered or issued for delivery in this state beyond January 1, 1989 and after the operative date of Section 27-15-28 for that policy form,

- (i) a mortality table which is a blend of the 1980 CSO Table (M) and the 1980 CSO Table (F) with or without Ten-Year Select Mortality Factors may at the option of the company be substituted for the 1980 CSO Table, with or without Ten-Year Select Mortality Factors, and
- (ii) a mortality table which is of the same blend as used in (i) but applied to form a blend of the 1980 CET Table (M) and the 1980 CET Table (F) may at the option of the company be substituted for the 1980 CET Table.

for use in determining cash surrender and amounts of paid-up nonforfeiture benefits.

The following tables will be considered as the basis for acceptable tables:

TABLE A. 100% Male 0% Female for tables to be designated as the "1980 CSO-A" and "1980 CET-A" tables.

TABLE B. 80% Male 20% Female for tables to be designated as the "1980 CSO-B" and "1980 CET-B" tables.

TABLE C. 60% Male 40% Female for tables to be designated as the "1980 CSO-C" and "1980 CET-C" tables.

TABLE D. 50% Male 50% Female for tables to be designated as the "1980 CSO-D" and "1980 CET-D" tables.

TABLE E. 40% Male 60% Female for tables to be designated as the "1980 CSO-E" and "1980 CET-E" tables.

TABLE F. 20% Male 80% Female for tables to be designated as the "1980 CSO-F" and "1980 CET-F" tables.

TABLE G. 0% Male 100% Female for tables to be designated as the "1980 CSO-G" and "1980 CET-G" tables.

Tables A and G are not to be used with respect to policies issued on or after January 1, 1985 except where the proportion of persons insured is anticipated to be 90% or more of one sex or the other or except for certain

policies converted from group insurance. Such group conversions issued on or after January 1, 1986 must use Mortality Tables based on the blend of lives by sex expected for such policies if such group conversions are considered as extensions of the United States Supreme Court's decision in **Arizona Governing Committee v. Norris**, 51 U.S.L.W. 5243 (July 6, 1983). This consideration has not been clearly defined by court or legislative action in all jurisdictions. Table A is the same as 1980 CSO Table (M) and 1980 CET Table (M) and Table G is the same as 1980 CSO Table (F) and 1980 CET Table (F).

### **Section 5. Unfair Discrimination**

It shall not be a violation of the "Trade Practices Law" (Section 27-12-1, et seq. **Code of Alabama** 1975) for an insurer to issue the same kind of policy of life insurance on both a sex distinct and sex neutral basis.

### **Section 6. Separability**

If any provision of this Regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

### **Section 7. Effective Date**

The effective date of this Regulation is November 15, 1984.

DONE and ORDERED this 17th day of October, 1984.

THARPE FORRESTER

Acting Commissioner of Insurance

### **CERTIFICATION**

I, Phillip E. Stano, General Counsel for the Alabama Department of Insurance, hereby certify that I have personally delivered a copy of the foregoing regulation to the Secretary of State, State Capitol, on this the 2nd day of November, 1984.

PHILLIP E. STANO

General Counsel

TABLE B

ALABAMA REGULATION FOR PERMITTING  
SAME MINIMUM NONFORFEITURE STANDARDS  
FOR MEN AND WOMEN INSUREDS UNDER  
1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX I

## BLENDED 1980 CSO MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE LX TO TOTAL LX IS 80%

Age	LX	1000QX	Age	LX	1000QX	Age	LX	1000QX
0	136260	3.92	35	129726	2.02	70	88643	35.59
1	135726	1.04	36	129464	2.14	71	85488	38.95
2	135585	.95	37	129187	2.3	72	82158	42.84
3	135456	.94	38	128890	2.47	73	78638	47.33
4	135329	.91	39	128572	2.68	74	74916	52.37
5	135206	.87	40	128227	2.9	75	70993	57.84
6	135088	.83	41	127855	3.16	76	66887	63.65
7	134976	.79	42	127451	3.42	77	62630	69.7
8	134869	.75	43	127015	3.72	78	58265	75.95
9	134768	.73	44	126543	4.01	79	53840	82.57
10	134670	.72	45	126036	4.35	80	49394	89.83
11	134573	.75	46	125488	4.7	81	44957	97.94
12	134472	.83	47	124898	5.07	82	40554	107.18
13	134360	.94	48	124265	5.45	83	36207	117.65
14	134234	1.08	49	123588	5.89	84	31947	129.1
15	134089	1.24	50	122860	6.36	85	27823	141.38
16	133923	1.39	51	122079	6.9	86	23889	154.17
17	133737	1.53	52	121237	7.5	87	20206	167.49
18	133532	1.62	53	120328	8.19	88	16822	181.24
19	133316	1.69	54	119343	8.96	89	13773	195.54
20	133091	1.74	55	118274	9.78	90	11080	210.53
21	132859	1.75	56	117117	10.67	91	8747	226.51
22	132626	1.73	57	115867	11.58	92	6766	244.13
23	132397	1.71	58	114525	12.54	93	5114	264.04
24	132171	1.69	59	113089	13.57	94	3764	289.36
25	131948	1.65	60	111554	14.72	95	2675	324.89
26	131730	1.63	61	109912	16	96	1806	380.97
27	131515	1.61	62	108153	17.47	97	1118	477.69
28	131303	1.61	63	106264	19.16	98	584	657.38
29	131092	1.63	64	104228	21.05	99	200	1000
30	130878	1.65	65	102034	23.11			
31	130662	1.7	66	99676	25.29			
32	130440	1.75	67	97155	27.61			
33	130212	1.83	68	94473	30.03			
34	129974	1.91	69	91636	32.66			

TABLE B

ALABAMA REGULATION FOR PERMITTING  
SAME MINIMUM NONFORFEITURE STANDARDS  
FOR MEN AND WOMEN INSUREDS UNDER  
1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX I

## BLENDED 1980 CET MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE LX TO TOTAL LX IS 80%

Age	Lx	1000qx	Age	Lx	1000qx	Age	Lx	1000qx
0	2437508	5.1	35	2259396	2.77	70	1374833	46.27
1	2425077	1.79	36	2253137	2.89	71	1311219	50.64
2	2420736	1.7	37	2246625	3.05	72	1244819	55.69
3	2416621	1.69	38	2239773	3.22	73	1175495	61.53
4	2412537	1.66	39	2232561	3.48	74	1103167	68.08
5	2408532	1.62	40	2224792	3.77	75	1028063	75.19
6	2404630	1.58	41	2216405	4.11	76	950763	82.75
7	2400831	1.54	42	2207296	4.45	77	872087	90.61
8	2397134	1.5	43	2197474	4.84	78	793067	98.74
9	2393538	1.48	44	2186838	5.21	79	714760	107.34
10	2389996	1.47	45	2175445	5.66	80	638038	116.78
11	2386483	1.5	46	2163132	6.11	81	563528	127.32
12	2382903	1.58	47	2149915	6.59	82	491780	139.33
13	2379138	1.69	48	2135747	7.09	83	423260	152.95
14	2375117	1.83	49	2120605	7.66	84	358522	167.83
15	2370771	1.99	50	2104361	8.27	85	298351	183.79
16	2366053	2.14	51	2086958	8.97	86	243517	200.42
17	2360990	2.28	52	2068238	9.75	87	194711	217.74
18	2355607	2.37	53	2048073	10.65	88	152315	235.61
19	2350024	2.44	54	2026261	11.65	89	116428	254.2
20	2344290	2.49	55	2002655	12.71	90	86832	273.69
21	2338453	2.5	56	1977201	13.87	91	63067	294.46
22	2332607	2.48	57	1949777	15.05	92	44496	317.37
23	2326822	2.46	58	1920433	16.3	93	30374	343.25
24	2321098	2.44	59	1889130	17.64	94	19948	376.17
25	2315435	2.4	60	1855806	19.14	95	12444	422.36
26	2309878	2.38	61	1820286	20.8	96	7188	495.26
27	2304380	2.36	62	1782424	22.71	97	3628	621
28	2298942	2.36	63	1741945	24.91	98	1375	854.59
29	2293516	2.38	64	1698553	27.37	99	200	1000
30	2288057	2.4	65	1652064	30.04			
31	2282566	2.45	66	1602436	32.88			
32	2276974	2.5	67	1549748	35.89			
33	2271282	2.58	68	1494128	39.04			
34	2265422	2.66	69	1435797	42.46			



TABLE C

ALABAMA REGULATION FOR PERMITTING  
 SAME MINIMUM NONFORFEITURE STANDARDS  
 FOR MEN AND WOMEN INSUREDS UNDER  
 1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX I

## BLENDED 1980 CSO MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE LX TO TOTAL LX IS 60%

Age	Lx	1000qx	Age	Lx	1000qx	Age	Lx	1000 qx
0	107405	3.67	35	102562	1.93	70	72370	31.92
1	107011	.99	36	102364	2.04	71	70060	34.9
2	106905	.93	37	102155	2.2	72	67615	38.38
3	106806	.9	38	101930	2.36	73	65020	42.48
4	106710	.88	39	101689	2.56	74	62258	47.11
5	106616	.84	40	101429	2.78	75	59325	52.16
6	106526	.81	41	101147	3.03	76	56231	57.58
7	106440	.77	42	100841	3.29	77	52993	63.24
8	106358	.73	43	100509	3.56	78	49642	69.13
9	106280	.73	44	100151	3.84	79	46210	75.41
10	106202	.71	45	99766	4.15	80	42725	82.34
11	106127	.74	46	99352	4.47	81	39207	90.17
12	106048	.8	47	98908	4.81	82	35672	99.12
13	105963	.89	48	98432	5.17	83	32136	109.33
14	105869	1.01	49	97923	5.58	84	28623	120.58
15	105762	1.14	50	97377	6.01	85	25172	132.68
16	105641	1.27	51	96792	6.5	86	21832	145.47
17	105507	1.38	52	96163	7.05	87	18656	158.84
18	105361	1.47	53	95485	7.68	88	15693	172.87
19	105206	1.52	54	94752	8.37	89	12980	187.54
20	105046	1.56	55	93959	9.11	90	10546	203.08
21	104882	1.58	56	93103	9.88	91	8404	219.75
22	104716	1.58	57	92183	10.68	92	6557	238.2
23	104551	1.56	58	91198	11.5	93	4995	259.26
24	104388	1.55	59	90149	12.39	94	3700	285.17
25	104226	1.53	60	89032	13.37	95	2645	322.03
26	104067	1.52	61	87842	14.48	96	1793	378.56
27	103909	1.51	62	86570	15.79	97	1114	476.7
28	103752	1.53	63	85203	17.3	98	583	657.1
29	103593	1.54	64	83729	19.01	99	200	1000
30	103433	1.58	65	82137	20.88			
31	103270	1.63	66	80422	22.84			
32	103102	1.67	67	78585	24.9			
33	102930	1.75	68	76628	27.04			
34	102750	1.83	69	74556	29.32			

TABLE C

ALABAMA REGULATION FOR PERMITTING  
SAME MINIMUM NONFORFEITURE STANDARDS  
FOR MEN AND WOMEN INSURED UNDER  
1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX I

## BLENDED 1980 CET MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE LX TO TOTAL LX IS 60%

Age	Lx	1000qx	Age	Lx	1000qx	Age	Lx	1000qx
0	1760557	4.77	35	1636971	2.68	70	1038798	41.5
1	1752159	1.74	36	1632584	2.79	71	995688	45.37
2	1749110	1.68	37	1628029	2.95	72	950514	49.89
3	1746171	1.65	38	1623226	3.11	73	903093	55.22
4	1743290	1.63	39	1618178	3.33	74	853224	61.24
5	1740448	1.59	40	1612789	3.61	75	800973	67.81
6	1737681	1.56	41	1606967	3.94	76	746659	74.85
7	1734970	1.52	42	1600636	4.28	77	690772	82.21
8	1732333	1.48	43	1593785	4.63	78	633984	89.87
9	1729769	1.48	44	1586406	4.99	79	577008	98.03
10	1727209	1.46	45	1578490	5.4	80	520444	107.04
11	1724687	1.49	46	1569966	5.81	81	464736	117.22
12	1727117	1.55	47	1560844	6.25	82	410260	128.86
13	1719448	1.64	48	1551089	6.72	83	357394	142.13
14	1716628	1.76	49	1540666	7.25	84	306598	156.75
15	1713607	1.89	50	1529496	7.81	85	258539	172.48
16	1710368	2.02	51	1517551	8.45	86	213946	189.11
17	1706913	2.13	52	1504728	9.17	87	173487	206.49
18	1703277	2.22	53	1490930	9.98	88	137664	224.73
19	1699496	2.27	54	1476051	10.88	89	106727	243.8
20	1695638	2.31	55	1459992	11.84	90	80707	264
21	1691721	2.33	56	1442706	12.84	91	59400	285.69
22	1687779	2.33	57	1424182	13.88	92	42430	309.66
23	1683846	2.31	58	1404414	14.95	93	29291	337.04
24	1679956	2.3	59	1383418	16.11	94	19419	370.72
25	1676092	2.28	60	1361131	17.38	95	12220	418.64
26	1672271	2.27	61	1337475	18.82	96	7104	492.13
27	1668475	2.26	62	1312304	20.53	97	3608	619.71
28	1664704	2.28	63	1285362	22.49	98	1372	854.23
29	1660908	2.29	64	1256454	24.71	99	200	1000
30	1657105	2.33	65	1225407	27.14			
31	1653244	2.38	66	1192149	29.69			
32	1649309	2.42	67	1156754	32.37			
33	1645318	2.5	68	1119310	35.15			
34	1641205	2.58	69	1079966	38.12			

TABLE D

ALABAMA REGULATION FOR PERMITTING  
 SAME MINIMUM NONFORFEITURE STANDARDS  
 FOR MEN AND WOMEN INSURED UNDER  
 1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX I

## BLENDED 1980 CSO MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE LX TO TOTAL LX IS 50%

Age	LX	1000QX	Age	LX	1000 QX	Age	Lx	1000qx
0	96981	3.54	35	92750	1.88	70	66485	30.16
1	96638	.97	36	92576	2.00	71	64480	32.96
2	96544	.91	37	92391	2.14	72	62355	36.29
3	96456	.89	38	92193	2.31	73	60092	40.20
4	96370	.85	39	91980	2.51	74	57676	44.66
5	96288	.83	40	91749	2.72	75	55100	49.55
6	96208	.79	41	91499	2.97	76	52370	54.80
7	96132	.77	42	91227	3.22	77	49500	60.31
8	96058	.73	43	90933	3.49	78	46515	66.06
9	95988	.72	44	90616	3.75	79	43442	72.23
10	95919	.71	45	90276	4.06	80	40304	79.07
11	95851	.72	46	89909	4.36	81	37117	86.80
12	95782	.78	47	89517	4.68	82	33895	95.68
13	95707	.87	48	89098	5.03	83	30652	105.81
14	95624	.97	49	88650	5.41	84	27409	117.02
15	95531	1.10	50	88170	5.83	85	24202	129.11
16	95426	1.21	51	87656	6.30	86	21077	141.91
17	95311	1.31	52	87104	6.82	87	18086	155.41
18	95186	1.39	53	86510	7.42	88	15275	169.55
19	95054	1.44	54	85868	8.07	89	12685	184.45
20	94917	1.48	55	85175	8.77	90	10345	200.23
21	94777	1.49	56	84428	9.50	91	8274	217.23
22	94636	1.50	57	83626	10.23	92	6477	235.91
23	94494	1.49	58	82771	10.99	93	4949	257.43
24	94353	1.49	59	81861	11.81	94	3675	283.81
25	94212	1.47	60	80894	12.71	95	2632	320.74
26	94074	1.47	61	79866	13.75	96	1788	377.93
27	93936	1.46	62	78768	14.96	97	1112	476.61
28	93799	1.48	63	77590	16.39	98	582	656.44
29	93660	1.51	64	76318	18.02	99	200	1000.00
30	93519	1.54	65	74943	19.78			
31	93375	1.58	66	73461	21.64			
32	93227	1.64	67	71871	23.59			
33	93074	1.70	68	70176	25.58			
34	92916	1.79	69	68381	27.73			

TABLE D

ALABAMA REGULATION FOR PERMITTING  
 SAME MINIMUM NONFORFEITURE STANDARDS  
 FOR MEN AND WOMEN INSUREDS UNDER  
1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX I

BLENDING 1930 CET MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE L<sub>x</sub> TO TOTAL L<sub>x</sub> IS 50%

Age	L <sub>x</sub>	1000Q <sub>x</sub>	Age	L <sub>x</sub>	1000Q <sub>x</sub>	Age	L <sub>x</sub>	1000Q <sub>x</sub>
0	1528592	4.60	35	1423504	2.63	70	921991	39.21
1	1521560	1.72	36	1419760	2.75	71	885840	42.85
2	1518943	1.66	37	1415856	2.89	72	847882	47.18
3	1516422	1.64	38	1411764	3.06	73	807879	52.26
4	1513935	1.60	39	1407444	3.26	74	765659	58.06
5	1511513	1.58	40	1402856	3.54	75	721205	64.42
6	1509125	1.54	41	1397890	3.86	76	674745	71.24
7	1506801	1.52	42	1392494	4.19	77	626676	78.40
8	1504511	1.48	43	1386659	4.54	78	577545	85.88
9	1502284	1.47	44	1380364	4.88	79	527945	93.90
10	1500076	1.46	45	1373628	5.28	80	478371	102.79
11	1497886	1.47	46	1366375	5.67	81	429199	112.84
12	1495684	1.53	47	1358628	6.08	82	380768	124.38
13	1493396	1.62	48	1350368	6.54	83	333408	137.55
14	1490977	1.72	49	1341537	7.03	84	287548	152.13
15	1488413	1.85	50	1332106	7.58	85	243803	167.84
16	1485659	1.96	51	1322009	8.19	86	202883	184.48
17	1482747	2.06	52	1311182	8.87	87	165455	202.03
18	1479693	2.14	53	1299552	9.65	88	132028	220.42
19	1476526	2.19	54	1287011	10.49	89	102926	239.79
20	1473292	2.23	55	1273510	11.40	90	78245	260.30
21	1470007	2.24	56	1258992	12.35	91	57878	282.40
22	1466714	2.25	57	1243443	13.30	92	41533	306.68
23	1463414	2.24	58	1226905	14.29	93	28796	334.66
24	1460136	2.24	59	1209373	15.35	94	19159	368.95
25	1456865	2.22	60	1190809	16.52	95	12090	416.96
26	1453631	2.22	61	1171137	17.88	96	7049	491.31
27	1450404	2.21	62	1150197	19.45	97	3586	619.59
28	1447199	2.23	63	1127826	21.31	98	1364	853.37
29	1443972	2.26	64	1103792	23.43	99	200	1000.00
30	1440709	2.29	65	1077930	25.71			
31	1437410	2.33	66	1050216	28.13			
32	1434061	2.39	67	1020673	30.67			
33	1430634	2.45	68	989369	33.25			
34	1427129	2.54	69	956472	36.05			

TABLE E

ALABAMA REGULATION FOR PERMITTING  
SAME MINIMUM NONFORFEITURE STANDARDS  
FOR MEN AND WOMEN INSUREDS UNDER  
1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX I

## BLENDED 1980 CSO MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE Lx TO TOTAL Lx IS 40%

Age	Lx	1000qx	Age	Lx	1000qx	Age	Lx	1000qx
0	88415	3.41	35	84690	1.83	70	61658	28.45
1	88114	.95	36	84535	1.95	71	59904	31.1
2	88030	.89	37	84370	2.09	72	58041	34.27
3	87952	.86	38	84914	2.25	73	56052	38.02
4	87876	.84	39	84005	2.45	74	53921	42.32
5	87802	.81	40	83799	2.66	75	51639	47.05
6	87731	.78	41	83576	2.9	76	49209	52.18
7	87663	.76	42	83334	3.15	77	46641	57.57
8	87596	.72	43	83071	3.41	78	43956	63.21
9	87533	.71	44	82788	3.66	79	41178	69.29
10	87471	.7	45	82485	3.96	80	38325	76.04
11	87410	.71	46	82158	4.22	81	35411	83.72
12	87348	.77	47	81810	4.55	82	32446	92.52
13	87281	.84	48	81438	4.89	83	29444	102.65
14	87208	.94	49	81040	5.26	84	26422	113.82
15	87126	1.05	50	80614	5.66	85	23415	125.93
16	87035	1.15	51	80158	6.1	86	20466	138.78
17	86935	1.24	52	79669	6.6	87	17626	152.39
18	86827	1.31	53	79143	7.16	88	14940	166.68
19	86713	1.36	54	78576	7.77	89	12450	181.76
20	86595	1.39	55	77965	8.43	90	10187	197.78
21	86475	1.41	56	77308	9.11	91	8172	215.12
22	86353	1.42	57	76604	9.79	92	6414	234.03
23	86230	1.42	58	75854	10.48	93	4913	255.85
24	86108	1.42	59	75059	11.23	94	3656	282.58
25	85986	1.4	60	74216	12.05	95	2623	319.76
26	85866	1.41	61	73322	13.01	96	1784	377.41
27	85745	1.42	62	72368	14.14	97	1111	476.21
28	85623	1.44	63	71345	15.5	98	582	656.1
29	85500	1.46	64	70239	17.03	99	200	1000
30	85375	1.5	65	69043	18.71			
31	85247	1.55	66	67751	20.46			
32	85115	1.6	67	66365	22.31			
33	84979	1.66	68	64884	24.17			
34	84838	1.75	69	63316	26.18			

TABLE E

ALABAMA REGULATION FOR PERMITTING  
SAME MINIMUM NONFORFEITURE STANDARDS  
FOR MEN AND WOMEN INSURED UNDER  
1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX J

## BLENDED 1980 CET MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE Lx TO TOTAL Lx IS 40%

Age	Lx	1000Qx	Age	Lx	1000Qx	Age	Lx	1000Qx
0	1345746	4.43	35	1255208	2.58	70	829603	36.99
1	1339784	1.7	36	1251970	2.7	71	798916	40.43
2	1337506	1.64	37	1248590	2.84	72	766616	44.55
3	1335312	1.61	38	1245044	3	73	732463	49.43
4	1333162	1.59	39	1241309	3.2	74	696257	55.02
5	1331042	1.56	40	1237337	3.46	75	657949	61.17
6	1328966	1.53	41	1233056	3.77	76	617702	67.83
7	1326933	1.51	42	1228407	4.1	77	575803	74.84
8	1324929	1.47	43	1223371	4.43	78	532710	82.17
9	1322981	1.46	44	1217951	4.76	79	488937	90.08
10	1321049	1.45	45	1212154	5.15	80	444894	98.85
11	1319133	1.46	46	1205911	5.51	81	400916	108.84
12	1317207	1.52	47	1199266	5.92	82	357280	120.28
13	1315205	1.59	48	1192166	6.36	83	314306	133.45
14	1313114	1.69	49	1184584	6.84	84	272362	147.97
15	1310895	1.8	50	1176481	7.36	85	232061	163.71
16	1308535	1.9	51	1167822	7.93	86	194070	180.41
17	1306049	1.99	52	1158561	8.58	87	159058	198.11
18	1303450	2.06	53	1148621	9.31	88	127547	216.68
19	1300765	2.11	54	1137927	10.1	89	99910	236.29
20	1298020	2.14	55	1126434	10.96	90	76302	257.11
21	1295242	2.16	56	1114088	11.84	91	56684	279.66
22	1292444	2.17	57	1100897	12.73	92	40832	304.24
23	1289639	2.17	58	1086883	13.62	93	28409	332.61
24	1286840	2.17	59	1072080	14.6	94	18960	367.35
25	1284048	2.15	60	1056428	15.67	95	11995	415.69
26	1281287	2.16	61	1039874	16.91	96	7009	490.63
27	1278519	2.17	62	1022290	18.38	97	3570	619.07
28	1275745	2.19	63	1003500	20.15	98	1360	852.93
29	1272951	2.21	64	983279	22.14	99	200	1000
30	1270138	2.25	65	961509	24.32			
31	1267280	2.3	66	938125	26.6			
32	1264365	2.35	67	913171	29			
33	1261394	2.41	68	886689	31.42			
34	1258354	2.5	69	858829	34.03			

TABLE F

**ALABAMA REGULATION FOR PERMITTING  
SAME MINIMUM NONFORFEITURE STANDARDS  
FOR MEN AND WOMEN INSUREDS UNDER  
1980 CSO AND 1980 CET MORTALITY TABLES**

APPENDIX 1

**BLENDED 1980 CSO MORTALITY TABLE**

PIVOTAL AGE IS 45 \*\* RATIO OF MALE LX TO TOTAL LX IS 20%

<u>Age</u>	<u>Lx</u>	<u>1000qx</u>	<u>Age</u>	<u>Lx</u>	<u>1000qx</u>	<u>Age</u>	<u>Lx</u>	<u>1000qx</u>
0	75108	3.15	35	72162	1.74	70	54158	25.19
1	74871	.92	36	72036	1.85	71	52794	27.57
2	74802	.85	37	71903	1.99	72	51338	30.43
3	74738	.82	38	71760	2.15	73	49776	33.92
4	74677	.81	39	71606	2.32	74	48088	37.94
5	74617	.79	40	71440	2.54	75	46264	42.43
6	74558	.76	41	71259	2.77	76	44301	47.33
7	74501	.74	42	71062	3.02	77	42204	52.53
8	74446	.71	43	70847	3.25	78	39987	58.03
9	74393	.7	44	70617	3.49	79	37667	63.98
10	74341	.7	45	70371	3.75	80	35257	70.65
11	74289	.7	46	70107	4.02	81	32766	78.26
12	74237	.74	47	69825	4.3	82	30202	87.04
13	74182	.8	48	69525	4.61	83	27573	97.15
14	74123	.86	49	69204	4.94	84	24894	108.33
15	74059	.95	50	68862	5.31	85	22197	120.52
16	73989	1.03	51	68496	5.7	86	19522	133.53
17	73913	1.09	52	68106	6.15	87	16915	147.37
18	73832	1.15	53	67687	6.65	88	14422	161.93
19	7374	1.19	54	67237	7.19	89	12087	177.4
20	73659	1.22	55	66754	7.76	90	9943	193.8
21	73569	1.24	56	66236	8.34	91	8016	211.61
22	73478	1.25	57	65684	8.91	92	6320	231.05
23	73386	1.27	58	65099	9.47	93	4860	253.44
24	73293	1.28	59	64483	10.08	94	3628	280.66
25	73199	1.29	60	63833	10.75	95	2610	318.37
26	73105	1.3	61	63147	11.55	96	1779	376.21
27	73010	1.31	62	62418	12.54	97	1110	475.72
28	72914	1.35	63	61635	13.74	98	582	656.09
29	72816	1.38	64	60788	15.1	99	200	1000
30	72716	1.42	65	59870	16.62			
31	72613	1.47	66	58875	18.19			
32	72506	1.52	67	57804	19.81			
33	72396	1.58	68	56659	21.45			
34	72282	1.66	69	55444	23.19			

TABLE F

ALABAMA REGULATION FOR PERMITTING  
SAME MINIMUM NONFORFEITURE STANDARDS  
FOR MEN AND WOMEN INSUREDS UNDER  
1980 CSO AND 1980 CET MORTALITY TABLES

APPENDIX I

## BLENDED 1980 CET MORTALITY TABLE

PIVOTAL AGE IS 45 \*\* RATIO OF MALE LX TO TOTAL LX IS 20%

Age	Lx	1000qx	Age	Lx	1000qx	Age	Lx	1000qx
0	1080889	4.1	35	1011328	2.49	70	695320	32.75
1	1076457	1.67	36	1008810	2.6	71	672548	35.84
2	1074659	1.6	37	1006187	2.74	72	648444	39.56
3	1072940	1.57	38	1003430	2.9	73	622792	44.1
4	1071255	1.56	39	1000520	3.07	74	595327	49.32
5	1069584	1.54	40	997448	3.3	75	565965	55.16
6	1067937	1.51	41	994156	3.6	76	534746	61.53
7	1066324	1.49	42	990577	3.93	77	501843	68.29
8	1064735	1.46	43	986684	4.23	78	467572	75.44
9	1063180	1.45	44	982510	4.54	79	432298	83.17
10	1061638	1.45	45	978049	4.88	80	396344	91.85
11	1060099	1.45	46	973276	5.23	81	359940	101.74
12	1058562	1.49	47	968186	5.59	82	323320	113.15
13	1056985	1.55	48	962774	5.99	83	286736	126.3
14	1055347	1.61	49	957007	6.42	84	250521	140.83
15	1053648	1.7	50	950863	6.9	85	215240	156.68
16	1051857	1.78	51	944302	7.41	86	181516	173.59
17	1049985	1.84	52	937305	8	87	150007	191.58
18	1048053	1.9	53	929807	8.65	88	121269	210.51
19	1046062	1.94	54	921764	9.35	89	95741	230.62
20	1044033	1.97	55	913146	10.09	90	73661	251.94
21	1041976	1.99	56	903932	10.84	91	55103	275.09
22	1039902	2	57	894133	11.58	92	39945	300.37
23	1037822	2.02	58	883779	12.31	93	27947	329.47
24	1035726	2.03	59	872900	13.1	94	18739	364.86
25	1033623	2.04	60	861465	13.98	95	11902	413.88
26	1031514	2.05	61	849422	15.02	96	6976	489.07
27	1029399	2.06	62	836664	16.3	97	3564	618.44
28	1027278	2.1	63	823026	17.86	98	1360	852.92
29	1025121	2.13	64	808327	19.63	99	200	1000
30	1022937	2.17	65	792460	21.61			
31	1020717	2.22	66	775335	23.65			
32	1018451	2.27	67	756998	25.75			
33	1016139	2.33	68	737505	27.89			
34	1013771	2.41	69	716936	30.15			



IN THE MATTER OF	) ORDER
THE ADOPTION OF AN INSURANCE	)
DEPARTMENT REGULATION	) CASE NO. R-84-76S
	)

# I

## POSTURE OF THE HEARING

Under the provisions of §27-2-17, 27-2-29, et al., **Code of Alabama** 1975 and, where applicable, Insurance Department Regulation No. 65, a hearing on the adoption of an Insurance Department Regulation was held at 10 a.m., October 16, 1984, in the offices of the Alabama Insurance Department, 135 South Union Street, Retirement Systems, Building, Montgomery, Alabama 36130-3401.

The proposed Regulation (to be numbered No. 73) considered for adoption will permit individual life insurance policies sold in Alabama to provide the same cash values and paid-up nonforfeiture benefits to both men and women. No change in minimum valuation standards is implied or contemplated by this proposed Regulation.

Official Notice of the Hearing on this proposed Regulation was by means of newspaper publication, in accordance with §27-2-29, **Code of Alabama** 1975. In addition, Notice of Hearing was sent to individuals, insurers, trade associations, and others who had previously indicated their interest in receiving such notification.

Anyone wishing to submit testimony at the above-scheduled Hearing was strongly urged to reduce said testimony to writing and submit said writing to the Insurance Department (Attention: Legal Division) at least two weeks in advance of said Hearing. It was specifically stated in the Notice of Hearing on these matters that any written submission prior to the Hearing would not adversely affect one's right to make an oral presentation at the Hearing.

Present at the October 16, 1984, Hearing were two representatives of domestic life insurers, as well as staff members of the Alabama Insurance Department.

# II

## TESTIMONY RECEIVED AT THE HEARING

Mr. Esse Langston, Consultant Actuary for the Department, testified that the proposed Regulation was the National Association of Insurance Commissioners' model Regulation and recommended that the Regulation be adopted in its present form, subject to minor typographical corrections.

It was brought out that the adoption of the "blended" mortality tables will provide for increased competition for life insurance, particularly as regards pension plans. The Regulation will permit insurers to comply with the **Norris** decision. There was no objection to the adoption of the proposed Regulation.

# III

## FINDINGS OF FACT

1. All present had an opportunity to comment on all items appearing in the Notice of Hearing.

2. Eight (8) exhibits were introduced without objection and made a part of the record.

3. All written statements submitted were reviewed.

4. After consideration of testimony presented at the Hearing, and based upon information available to me, I find it is in the best interest of the public to adopt the corrected draft of proposed Departmental Regulation No. 73.

IV  
**ORDER**

Based upon the above findings, it is **HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

That revised Departmental Regulation No. 73, copy attached, be adopted retroactively to August 1, 1984, to comply with the **NORRIS** decision (51 U.L.W. 5243—Decided July 6, 1983).

**DONE AND ORDERED** this 17th day of October, 1984.

THARPE FORRESTER  
Hearing's Officer  
Acting Commissioner

**OFFICIALS OF THE STATE OF ALABAMA — 1985**

Address all State Officials, Montgomery, Alabama 36130,  
unless otherwise noted

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Annie Laurie Gunter .....	
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3rd District .....	Nolan Williams
4th District .....	Dr. John L. Fulmer
5th District .....	Victor P. Poole
6th District .....	Dr. Harold C. Martin
7th District .....	Dr. James Allen, Jr.
8th District .....	Dr. Evelyn Pratt
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<i>and Weights and Measures</i>	
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Pyron Keener .....	Chief Director Poultry Inspection
Gurnia Moore .....	Chief Seed Analyst
James Burnett .....	Chief Shipping Point Inspection
Dr. J. Lee Alley .....	Director, Animal Industry Division
Dr. J. Lee Alley .....	State Veterinarian
T. O. Smith .....	General Services Div.
David Gonsoulin .....	Chief Livestock Market News Div.
Marshall L. Dantzler .....	Chief Statistical Div.
Edward Spencer .....	Assistant — Agricultural Chemistry Lab, Montgomery
John Dewey Jinks .....	Dr. Chemical Lab, Auburn
Patrick Morgan .....	Dir. Pesticide Lab, Auburn
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L. T. Farris .....	Coliseum Manager
Aeronautics, Alabama Department of .....	261-4480
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Alabama Development Office .....	263-0048
Jamie Etheredge .....	Director
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Bill Dukes .....	Tarrant
Joe Adams .....	Legal Counsel for Board
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Reginald T. Hamner .....	Executive Director
415 Dexter Ave., Montgomery, Al.	

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Frank J. Arrington .....	<i>Asst. Supt. of Banks</i>
<i>Budget Officer</i> .....	261-3117
Charles C. Rowe — Acting .....	
<i>Building Commission, State</i> .....	261-4082
Frank Vanviver .....	<i>Director</i>
<i>Buildings, State</i> .....	000-000
Administrative Building .....	H. A. Brooks, <i>Custodian</i>
Archives and History Building .....	Edward Ross, <i>Custodian</i>
Capitol Building .....	Norman V. Anderson, <i>Custodian</i>
Highway Building .....	James P. Howard, <i>Custodian</i>
Industrial Relations Building .....	E. J. Kelley, <i>Custodian</i>
Judicial Building .....	Ellis Moore, <i>Custodian</i>
Public Safety Building .....	Basil D. Kelley, <i>Custodian</i>
State Office Building .....	Floyd G. Moseley, <i>Custodian</i>
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<i>Dental Examiners, Board of</i> .....	533-4638
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Dr. C. C. Baker .....	<i>Assistant Superintendent</i>
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Linda Oliver .....	Recording Secretary
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Guy Hayes .....	Legal Counsel
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Thomas David Weston .....	Manager, Insurance Fund
James H. Rowell .....	Data Systems Management Division
Mickey McGee .....	Personnel Officer and Office of Space Management
John Brooks .....	Printing and Publication Division
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Cecil McCall .....	Director, Internal Audit
261-5304	
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Naseeb L. Shory, D.D.S. ....	<i>Director, Bureau of Dental Health</i>	261-5657
434 Monroe Street		
James W. Cooper .....	<i>Director, Environmental and Facility Standards Administration</i>	261-5004
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Highway Patrol (See Public Safety)		
Highway Traffic Safety .....		284-8790
Ruby Noonan .....	<i>Coordinator</i>	



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	<i>Unemployment Compensation Division</i>
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Clifford DePriest .....	Employment Service
	Administrator
James Cogdell .....	Deputy State Programs Administrator
Tom J. Ventress .....	State Programs Administrator
Douglas Dyer .....	Chief, Research and Statistics
Otto P. Hammonds .....	Personnel and Training Officer
Mark Davis .....	State Workmen's
	Compensation Administrator
Byron Abrams .....	Fiscal and Budget Office
Frank Willett .....	Chief, Administrative Analysis Division
George Cocoris .....	General Counsel
Grady Simpson .....	Departmental Investigation
	and Grievance Office
Joyce Murphree .....	Public Information Officer
George Register .....	Manager, Employee Relations
	and Placement Operation
Tony Piel .....	Data Center Manager
Erskine Banks .....	EEO Officer
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	Chief of Receivership
<i>Labor, Department of</i> .....	261-3460
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<i>Legislative Reference Service</i> .....	261-3023
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<i>Medical Examiners, State Board of</i> .....	261-4116
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Charles Fetner .....	Director, Bryce Hospital
John T. Bartlett .....	Director, Searcy Hospital
James Pouncey .....	Associate Commissioner for
	Mental Illness
Larry Latham .....	Associate Commissioner for
	Mental Retardation

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Roderick Benton .....	<i>Program Administrator</i>
<i>Personnel Department</i> .....	261-3389
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<i>Pharmacy, Alabama Board of</i> .....	252-8976
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<i>Physical Therapy, State Board</i> .....	261-4064
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Mobile, Al. 36601	
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1600 7th Ave. S., Suite 054	
Birmingham, Al. 35233	
<i>Public Accountancy, State Board</i> .....	834-7650
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1103 S. Perry Street	
Montgomery, Al. 36104	

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<i>Public Safety, Department</i> .....	261-4371
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H. J. Hammond .....	<i>Drivers License Div. &amp; Safety Responsibility Unit</i>
G. L. McGriff .....	<i>Head Administrative Div.</i>
Jerry Shoemaker .....	<i>Chief, Bureau of Investigation &amp; Identification</i>
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Wallace Tidmore .....	<i>Secretary</i>
Lynn Greer .....	<i>Associate Commissioner, No. 1</i>
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<i>Purchasing Agent, State</i> .....	261-3128
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<i>Real Estate Commission</i> .....	261-5544
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<i>Revenue, Department of</i> .....	261-3362
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Sam L. Evans .....	<i>Assistant Commissioner</i>
Lewis A. Easterly .....	<i>Secretary &amp; Director of Administrative Services</i>
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Bill Thompson .....	<i>Chief Administrative Law Judge</i>
B. Frank Loeb .....	<i>Chief Counsel, Legal Division</i>
V. S. McElvy .....	<i>Director of Operations</i>
Kenneth Green .....	<i>Chief, Ad Valorem Tax Division</i>
Robert Brashears .....	<i>Chief, Collections Division</i>
Ernest J. Broadhead .....	<i>Chief, Franchise Tax Division</i>
George Mingledorff .....	<i>Chief, Income Tax Division</i>
Dwight Pridgen .....	<i>Chief, Miscellaneous Tax Division</i>
Robert B. McCain .....	<i>Chief, Motor Vehicle Division</i>
Horace Hitt .....	<i>Chief, Sales &amp; Use Tax Division</i>
Rebecca B. Wells .....	<i>Chief, Budget &amp; Administrative Management Div.</i>
Jan H. Schultz .....	<i>Chief, Information Systems Division</i>
John H. Mann .....	<i>Chief, Research &amp; Information Division</i>
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<i>Social Security, State Agency</i> .....	261-3037
Tom Brassell .....	<i>Director</i>
<i>Soil and Water Conservation Committee, State</i> .....	261-2620
James J. Plaster .....	<i>Executive Secretary</i>

<i>Teachers' Retirement System of Alabama</i> .....	832-4140
David G. Bronner .....	<i>Secretary-Treasurer</i>
<i>Television Commission, Alabama Educational</i> .....	328-8756
Skip Hinton .....	<i>General Manager</i>
2101 Magnolia Ave., Birmingham, Al. 35256	
<i>Trooper, State (See Public Safety)</i>	
<i>Unemployment Compensation Division (See</i>	
<i>Department of Industrial Relations</i>	
<i>Veterans Affairs, State Department of</i> .....	261-5077
Frank D. Wilkes .....	<i>Director</i>
<i>Veterinary Medical Examiners, Ala. State Board</i> .....	353-2435
Dr. Ray Ashwander .....	<i>Secretary-Treasurer</i>
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<i>Water Improvement Commission</i> .....	271-7700
Joe Broadwater .....	<i>Director</i>
<i>White House Association, The</i> .....	
First White House of the Confederacy .....	261-4624
Mrs. John H. Napier, III .....	<i>Regent</i>
<i>Women's Commission, Ala.</i> .....	
Margaret D. Sizemore .....	
9 Office Park Circle, Room 106	
Birmingham, Al. 35223	

### **SUPREME COURT OF ALABAMA**

P. O. Box 218

Montgomery, Alabama 36101

The Honorable C. C. Torbert, Jr. ....	261-4599
<i>Chief Justice Of</i>	
The Honorable Alva Hugh Maddox .....	261-4593
<i>Associate Justice</i>	
The Honorable James H. Faulkner .....	261-4353
<i>Associate Justice</i>	
The Honorable Richard L. Jones .....	261-4607
<i>Associate Justice</i>	
	(Birmingham) 870-1031
The Honorable Janie L. Shores .....	261-4619
<i>Associate Justice</i>	
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- District No. 100*  
 Victor Gaston ..... 864 W. Parkwood Dr.  
 Mobile 36608
- District No. 101*  
 Ken Kvalheim ..... 421 Dogwood Drive  
 Mobile 36609
- District No. 102*  
 J. E. Turner ..... P.O. Box 777  
 Citronelle 36522
- District No. 103*  
 Yvonne Kennedy ..... 1025 Glennon Ave.  
 Mobile 36603
- District No. 104*  
 Beth Marietta ..... 5259 Dog River Road E.  
 Theodore 36582
- District No. 105*  
 Taylor F. Harper ..... P.O. Box 229  
 Grand Bay 36541

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## REGULAR SESSION 1985

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FEMALE

6.00\*

AGE NEAR BIRTHDAY

1960 C50

FEMALE

AGE	AGE	AGE	AGE	AGE	AGE
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4	4	4	4	4	4
5	5	5	5	5	5
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98	98	98	98	98	98
99	99	99	99	99	99
100	100	100	100	100	100

45	9	403	244	33	497	3	56	533	88	.072	650	07	45
46	9	375	747	355	628	33	80	533	00	.068	537	81	46
47	9	340	119	377	827	4	05	532	12	.064	658	31	47
48	9	302	242	40	278	4	33	531	25	.060	998	40	48
49	9	262	013	422	883	4	83	530	39	.057	544	58	49
50	9	218	120	445	727	5	56	528	74	.054	385	38	50
51	9	174	433	477	111	5	11	527	70	.051	285	44	51
52	9	124	822	532	011	5	10	527	82	.048	316	45	52
53	9	072	851	555	787	6	15	526	98	.045	581	56	53
54	9	016	854	556	602	6	81	526	14	.043	001	47	54
55	8	957	282	633	507	7	08	525	31	.040	557	42	55
56	8	893	775	707	328	7	57	524	44	.038	271	11	56
57	8	828	449	744	610	8	03	523	67	.035	104	85	57
58	8	758	413	777	433	8	24	523	71	.034	061	19	58
59	8	681	413	811	478	9	47	522	13	.032	133	20	59
60	8	522	323	853	331	10	13	521	25	.030	314	34	60
61	8	455	592	922	289	10	66	520	44	.028	665	43	61
62	8	343	534	1000	259	12	02	519	65	.026	799	55	62
63	8	244	425	1098	222	12	55	518	88	.024	522	50	63
64	8	134	422	1111	186	14	35	518	93	.022	011	78	64
65	8	015	347	1228	148	16	00	517	97	.021	852	64	65
66	7	887	101	1377	472	17	43	516	83	.020	370	41	66
67	7	749	629	146	003	18	84	515	10	.019	160	77	67
68	7	603	625	154	810	20	36	514	38	.017	843	59	68
69	7	446	816	164	683	22	11	513	67	.016	827	37	69
70	7	284	123	176	494	24	23	512	97	.015	899	21	70
71	7	107	628	200	362	26	57	511	60	.014	212	54	71
72	6	915	647	2227	618	33	63	510	85	.013	408	06	72
73	6	708	327	2477	825	35	24	509	71	.012	646	11	73
74	6	480	771	2677	830	42	97	508	12	.011	933	13	74
75	6	232	948	286	554	48	04	507	55	.010	520	44	75
76	5	855	116	303	519	53	45	506	101	.009	019	28	76
77	5	678	552	318	008	59	35	505	88	.008	452	15	77
78	5	555	033	333	647	65	88	504	98	.007	917	13	78
79	5	056	025	347	587	73	80	503	49	.006	412	38	79
80	4	722	378	371	446	82	53	502	03	.005	338	21	80
81	4	374	811	378	167	93	81	501	59	.004	468	98	81
82	4	014	377	379	033	116	10	500	18	.003	063	20	82
83	3	642	851	373	080	126	26	499	44	.002	652	40	83
84	3	264	714	350	105	143	32	498	79	.001	525	22	84
85	2	152	591	340	480	158	19	497	45	.000	324	40	85
86	2	152	486	330	509	173	24	496	79	.000	278	03	86
87	2	496	828	253	035	206	67	495	15	.000	279	28	87
88	1	211	305	219	268	228	81	494	55	.000	597	43	88
89	1	958	301	185	874	251	31	493	24	.000	431	54	89
90	1	739	032	154	503	279	31	492	51	.000	160	70	90
91	1	553	158	126	501	317	32	491	89	.000	84	05	91
92	1	399	655	100	439	347	34	490	21	.000	510	19	92
93	1	272	154	80	439	375	37	489	84	.000	111	50	93
94	1	168	895	58	502	400	00	488	50	.000	124	05	94
95	1	88	200	30	688	1000	00	487	50	.000			95

MALE

6.00%

AGE NEAR BIRTHDAY  
1950-55

MALE

AGE	AGE	AGE	AGE	AGE	AGE
0	10	20	30	40	50
1	11	21	31	41	51
2	12	22	32	42	52
3	13	23	33	43	53
4	14	24	34	44	54
5	15	25	35	45	55
6	16	26	36	46	56
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49	59	69	79	89	99
50	60	70	80	90	100

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67	0	0	2	24	08	3	3	0	0	068	05	07	67
68	0	0	2	24	08	3	3	0	0	068	05	07	68
69	0	0	2	24	08	3	3	0	0	068	05	07	69
70	0	0	2	24	08	3	3	0	0	068	05	07	70
71	0	0	2	24	08	3	3	0	0	068	05	07	71
72	0	0	2	24	08	3	3	0	0	068	05	07	72
73	0	0	2	24	08	3	3	0	0	068	05	07	73
74	0	0	2	24	08	3	3	0	0	068	05	07	74
75	0	0	2	24	08	3	3	0	0	068	05	07	75
76	0	0	2	24	08	3	3	0	0	068	05	07	76
77	0	0	2	24	08	3	3	0	0	068	05	07	77
78	0	0	2	24	08	3	3	0	0	068	05	07	78
79	0	0	2	24	08	3	3	0	0	068	05	07	79
80	0	0	2	24	08	3	3	0	0	068	05	07	80
81	0	0	2	24	08	3	3	0	0	068	05	07	81
82	0	0	2	24	08	3	3	0	0	068	05	07	82
83	0	0	2	24	08	3	3	0	0	068	05	07	83
84	0	0	2	24	08	3	3	0	0	068	05	07	84
85	0	0	2	24	08	3	3	0	0	068	05	07	85



